

## **IMPAIRED PROFESSIONAL'S COMMITTEE**

### **§ 34-38-1. Definitions.**

For the purpose of this chapter, the following terms shall have the meaning respectively ascribed to them by this section, unless the context clearly provides for another:

- (1) DENTIST. Any person who is a dentist or dental practitioner pursuant to the definition of section 6-5-481, as amended.
- (2) PHARMACIST. Any person who is a pharmacist as defined in section 34-23-1, as amended, and pharmacy externs and interns registered by the Board of Pharmacy under Rule 680-X-2.16 of the Alabama Administrative Code.
- (3) BOARDS. Individually and/or jointly: the Board of Dental Examiners and the Board of Pharmacy.
- (4) COMMITTEE. The Alabama Impaired Professional's Committee.
- (5) HYGIENIST. Any person who is a hygienist pursuant to the provisions of sections 34-9-26 and 34-9-27.

### **§ 34-38-2. State Board of Dental Examiners; duties - State Board of Pharmacy; duties - Committee; established.**

It shall be the duty and obligation of the State Board of Dental Examiners and the State Board of Pharmacy to promote the early identification, intervention, treatment and rehabilitation of individuals within the respective jurisdiction, licensed to practice in the state of Alabama, who may be impaired by reason of illness, inebriation, excessive use of drugs, narcotics, controlled substances, alcohol, chemicals or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession. For the purposes of this chapter, the term "impaired" shall mean the inability of a dentist, hygienist or pharmacist to practice with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, controlled substances, alcohol, chemicals or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession. In order to carry out this obligation, each Board, individually or jointly, is hereby empowered to contract with any non-profit corporation, health provider or professional association for the purpose of creating, supporting and maintaining a committee of professionals to be designated the Alabama Impaired Professionals' Committee. The committee shall consist of not less than three nor more than fifteen professionals licensed to practice dentistry or pharmacy in the State of Alabama, and selected in a manner prescribed by the board or boards. The authority of the Alabama Impaired Professionals' Committee shall not supersede the authority of the board or boards to take disciplinary action against individuals subject to this chapter. Nothing in this chapter shall limit the power and authority of the board or boards to discipline an impaired individual subject to its jurisdiction; provided that where an individual is impaired and currently in need of intervention, treatment or rehabilitation and such individual is currently participating in programs or rehabilitation recommended by the Committee, then in its discretion, the board or boards may refrain from taking or continuing disciplinary action against such individuals; and further provided that where the board or boards, upon reasonable cause to believe an individual subject to its jurisdiction is impaired, has referred such individual to the Committee for evaluation, then in its discretion, the board or boards may refrain from taking or continuing disciplinary action against such individual. The board, or boards, is authorized to expend such funds as are available to it as deemed necessary to adequately provide for the operational expenses of the Alabama Impaired Professionals' Committee, including, but not limited to, the actual cost of travel, office overhead and personnel expense and compensation for the members of the Committee and its staff; provided that operational expenses of the Alabama Impaired Professionals' Committee shall not include the cost of treatment or rehabilitation programs recommended by the Committee to individuals subject to this chapter. The funds provided by the board or boards, under this section for the purposes stated herein shall not be subject to any provision of law requiring competitive bidding.

### **§ 34-38-3. Boards; agreements.**

The board or boards shall have the authority to enter into an agreement with a nonprofit corporation, health provider or professional association for the Alabama Impaired Professionals' Committee to undertake those functions and responsibilities specified in the agreement. Such functions and responsibilities may include any or all of the following:

- (1) contracting with providers of treatment programs;
- (2) receiving and evaluating reports of suspected impairment from any source;
- (3) intervening in cases of verified impairment;
- (4) referring impaired professional to treatment programs;
- (5) monitoring the treatment and rehabilitation of impaired professional;

(6) providing post-treatment monitoring and support of rehabilitated impaired professional; and  
(7) performing such other activities as agreed upon by the respective Board or Boards and the Alabama Impaired Professionals' Committee.

§ **34-38-4. Committee procedures.**

The Alabama Impaired Professionals' Committee shall develop procedures in consultation with such board or boards for:

- (1) periodic reporting of statistical information regarding Alabama Impaired Professionals' Committee activity;
- (2) periodic disclosure and joint review of such information as the board or boards may deem appropriate regarding reports received, contracts or investigations made and the disposition of each report, provided, however, that the committee shall not disclose any personally identifiable information except as provided in section 34-38-7.

§ **34-38-5. Committee personnel liability.**

Any dentist licensed to practice in the state of Alabama, or pharmacist, who shall be duly appointed to serve as a member of the Alabama Impaired Professionals' Committee and any auxiliary personnel, consultants, attorneys, or other employees of the committee shall not be liable to any person for any claim for damages as a result of any decision, opinion, investigation or action taken by the committee or any individual member of the committee made by him within the scope of his function as a member of the committee if such decision, opinion, investigation or action was taken without malice and on a reasonable belief that such action or recommendation was warranted by the facts that were then available. No nonprofit corporation, professional association, health provider or state or county association that contracts with, or received funds from board or boards for the creation, support and operation of the Alabama Impaired Professionals' Committee shall be liable to any person for any claim for damages for any action taken or recommendation made by the Alabama Impaired Professionals' Committee, or any member thereof, or any auxiliary personnel, consultant, attorney, or employee of such committee.

§ **34-38-6. Confidentiality of information.**

All information, interviews, reports, statements, memorandums, or other documents furnished to or produced by the Alabama Impaired Professionals' Committee and any findings, conclusions, recommendations or reports resulting from the investigations, interventions, treatment or rehabilitation, or other related proceedings of such committee are declared to be privileged and confidential. All records and proceedings of such committee shall be confidential and shall be used by such committee, the members thereof and the boards, only in the exercise of the proper functions of the committee and the boards, and shall not be public records nor available for court subpoena or for discovery proceedings. Nothing contained herein shall apply to records made in the regular course of business of an individual; documents or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil proceedings merely because they were presented or considered during the proceedings of the Alabama Impaired Professionals' Committee.

§ **34-38-7. Reports.**

It shall be the duty of the Alabama Impaired Professionals' Committee to render an annual report to each board or boards, concerning the operations and proceedings of the committee for the preceding year. In addition, the committee shall promptly report to the respective boards any individual within their jurisdiction who, in the opinion of the committee is unable to practice the standards of his or her profession with reasonable skill and safety to patients, by reason of illness, inebriation, excessive use of drugs, controlled substances, narcotics, alcohol, chemicals or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession and appears that such individual is currently in need of intervention, treatment or rehabilitation. A report to the Alabama Impaired Professionals' Committee shall be deemed to be a report to the board or boards for the purpose of any mandated reporting of professional impairment otherwise provided for by the statutes of this state.

§ **34-38-8. Evaluations.**

If the board or boards has reasonable cause to believe that a professional is impaired, such board may cause an evaluation of such professional to be conducted by the Alabama Impaired Professionals' Committee, for the purpose of determining if there is an impairment. The Alabama Impaired Professionals' Committee shall report the findings of its evaluation to the respective board or boards.