Department of Health Professions
Commonwealth of Virginia

Statute and Regulations
Health Practitioners Intervention Program

Chapter 25.1
Title 54.1 of the Code of Virginia

and

18 VAC 76-10-10 et seq.
Regulations Governing the Health Practitioners Intervention Program

2000
Chapter 25.1.
Health Practitioners' Intervention Program.

Sec.
54.1-2515. Definitions.
54.1-2516. Program established; practitioner participation; disciplinary action stayed under certain conditions.
54.1-2517. Powers and duties of the Intervention Program Committee; certain meetings, decisions to be excepted from the Freedom of Information Act; confidentiality of records; immunity from liability.
54.1-2518. Investigation by Department or other authorized official; prosecution for violations of law.

§ 54.1-2515. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Contract" means a written agreement between a practitioner and the Intervention Program Committee providing the terms and conditions of program participation or a written agreement entered into by the Director for the implementation of intervention services.

"Disciplinary action" means any proceeding which may lead to a fine, probation, or to reprimand, restriction, revocation, suspension, denial or other order relating to the license, certificate or registration of a health care practitioner by a health regulatory board.

"Impairment" means a physical or mental disability, including, but not limited to substance abuse, that substantially alters the ability of a practitioner to practice his profession with safety to his patients and the public.

"Intervention Program Committee" means the seven-member group of licensed, certified or registered practitioners appointed by the Director to supervise the operation of the program, at least one of whom shall be licensed to practice medicine or osteopathy in Virginia and who shall be engaged in active clinical practice. All members of the Committee shall be knowledgeable about impairment and rehabilitation, particularly as related to health care practitioners.

"Practitioner" means any individual regulated by any health regulatory board listed in § 54.1-2503.

§ 54.1-2516. Program established; practitioner participation; disciplinary action stayed under certain conditions.

A. By January 1, 1998, the Director of the Department of Health Professions shall establish a comprehensive health practitioners' intervention program, providing an alternative to
disciplinary action. The Director shall promulgate such regulations as are necessary for the implementation of this program after consulting with the various health regulatory boards.

The Director may, in consultation and coordination with the Intervention Program Committee, enter into contracts as may be necessary for the implementation of intervention services. Such services may include education, intervention, assessment, referral, and monitoring of impaired practitioners.

When evaluating such contracts, the Director shall consider the utilization of programs, as appropriate, that have been established by professional organizations for peer assistance of impaired practitioners.

The Program's operating costs, including any contractual obligations for services, shall be funded by special dedicated revenues consistent with the provisions of §§ 54.1-113, 54.1-2400, and 54.1-2505.

Any intervention program for individuals licensed or certified by the Board of Medicine, and any contract for the implementation of intervention services with respect to any such individuals, shall be subject to the prior approval of that Board.

B. Any health practitioner who has an impairment as defined in this chapter, may, on a voluntary basis, participate in the Program regardless of whether the impairment constitutes grounds for disciplinary action.

C. Disciplinary action shall be stayed upon entry of the practitioner in the Program under the following conditions:

1. No report of a possible violation of law or regulation has been made against the practitioner other than impairment or the diversion of controlled substances for personal use and such use does not constitute a danger to patients or clients.

2. The practitioner has entered the Program by written contract with the Intervention Program Committee.

3. Disciplinary action against the practitioner has not previously been stayed in accordance with this section.

4. The practitioner remains in compliance with such terms, testing, treatment and other conditions as may be specified in the contract with the Intervention Program Committee.

5. The Intervention Program Committee has consulted with the designated representative of the relevant health regulatory board.

§ 54.1-2517. Powers and duties of the Intervention Program Committee; certain meetings, decisions to be excepted from the Freedom of Information Act; confidentiality of records; immunity from liability.
A. The Intervention Program Committee shall have the following powers and duties:

1. To determine, in accordance with the regulations, eligibility to enter into the Program;

2. To determine, in accordance with the regulations, those Program participants who are eligible for stayed disciplinary action;

3. To enter into written contracts with practitioners which may include, among other terms and conditions, withdrawal from practice or limitations on the scope of the practice for a period of time;

4. To report to the Director and the health regulatory boards as necessary on the status of applicants for and participants in the Program; and

5. To report to the Director, at least annually, on the performance of the Program.

B. Records of the Intervention Program Committee, to the extent such records identify individual practitioners in the intervention program, shall be privileged and confidential, and shall not be disclosed consistent with the Virginia Freedom of Information Act (§ 2.1-340 et seq.). Such records shall be used by the Committee only in the exercise of the proper functions of the Committee as set forth in this chapter and shall not be public records nor shall such records be subject to court order, except as provided in subdivision C 4 below, or be subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except those conducted by a health regulatory board.

C. Notwithstanding the provisions of subsection B above and of subdivision 61 of subsection A of § 2.1-342.01, the Committee may disclose such records relative to an impaired practitioner only:

1. When disclosure of the information is essential to the intervention, treatment or rehabilitation needs of the impaired practitioner;

2. When release of the information has been authorized in writing by the impaired practitioner;

3. To a health regulatory board within the Department of Health Professions; or

4. When an order by a court of competent jurisdiction has been granted, upon a showing of good cause therefor, including the need to avert a substantial risk of death or serious bodily harm. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate protections against unauthorized disclosures.

D. Pursuant to subdivision A 25 of § 2.1-344, the proceedings of the Committee which in any way pertain or refer to a specific practitioner who may be, or who is actually, impaired and who may be or is, by reason of such impairment, subject to disciplinary action by the relevant
board shall be excluded from the requirements of the Freedom of Information Act (§ 2.1-340 et seq.) and may be closed. Such proceedings shall be privileged and confidential.

E. The members of the Committee shall be immune from liability resulting from the exercise of the powers and duties of the Committee as provided in § 8.01-581.13.

§ 54.1-2518. Investigation by Department or other authorized official; prosecution for violations of law.

This chapter shall not be construed to inhibit an investigation into the conduct of a practitioner by the Department of Health Professions or any other authorized agency, including, but not limited to, law-enforcement or health regulatory agencies, or to prohibit the prosecution of any practitioner for any violation of law.
I. General Provisions.

18 VAC 76-10-10. Definitions.

The words and terms used in this chapter shall have the definitions ascribed to them in § 54.1-2515 or shall have the following meanings, unless the context clearly indicates otherwise:

“Committee” means the Intervention Program Committee as defined in § 54.1-2515 of the Code of Virginia.

“Contractor” means an entity with whom the Director has contracted for implementation and operation of intervention services.

“Director” means the Director of the Department of Health Professions.

“Regulated” means a person who is licensed, certified, or registered or an applicant who is otherwise fully eligible for licensure, certification, or registration by a health regulatory board within the Virginia Department of Health Professions.

“Program” means the Health Practitioners’ Intervention Program for the Virginia Department of Health Professions.

18 VAC 76-10-20. Organization of Committee.

A. Except for the initial appointments, members shall be appointed for a term of four years and shall be eligible for reappointment for one additional four-year term. A member who is appointed to fill a vacancy for the remainder of an unexpired term shall be eligible for two full four-year terms. Terms of appointment shall begin on July 1 of each calendar year.

B. The initial appointees to the Committee shall begin their terms on July 1, 1997 and shall be appointed as follows:

   1. Two members shall serve for a term of one year; two members shall serve for a term of two years; and two members shall serve for a term of three years. All of the above shall be eligible for reappointment to two four-year terms.
2. One member shall serve for a term of four years and shall be eligible for reappointment to one four-year term.

C. Members of the Committee shall not be current members of a health regulatory board within the Department.

D. The Committee shall elect a Chairman and Vice-Chairman for a one-year term ending June 30 of each calendar year.

E. The Committee shall meet not less than once every two months and shall conduct all business according to Robert’s Rules of Order. Four members shall constitute a quorum. The Committee may adopt by-laws to govern its operations as it deems necessary to conduct its business and as consistent with law and regulations.

F. The Director shall have the authority to remove a member and shall report such removal to the Board of Health Professions at its next scheduled meeting.

G. By December 31st of each calendar year, each health regulatory board within the Department shall designate, in accordance with § 54.1-2400 (8) of the Code of Virginia, a liaison to the Committee for a term of one year. Likewise, each board shall select an alternate to serve in the absence of the liaison.

II. Eligibility and Terms of Participation.

18 VAC 76-10-30. Eligibility.

A. Any impaired practitioner regulated by the Department shall be eligible for the Program. A practitioner who has been previously terminated for non-compliance from this or any other state-sponsored intervention program may be considered eligible at the discretion of the contractor.

B. For the purposes of eligibility for the Program, impairment shall not include kleptomania, pyromania, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, sexual behavioral disorders, homosexuality and bisexuality.

C. In order to become eligible for participation in the Program, the practitioner shall sign a participation contract with the Committee. Failure to adhere to the terms of the contract may subject the practitioner to termination from the Program.

D. Unless otherwise ordered by a regulatory board, a practitioner shall maintain a current license, certificate, or registration to remain eligible for participation in the Program.

18 VAC 76-10-40. Eligibility for stayed disciplinary action
A. The Committee shall consult with the board liaison for the purpose of determining whether disciplinary action should be stayed. If it is determined that an applicant for the program is not eligible for a stay and evidence of a violation has been reported to the Committee, the Committee shall make a report of the violation to the Enforcement Division of the Department. If found ineligible for stayed disciplinary action, the practitioner may remain eligible for the Program.

B. Prior to making a decision on stayed disciplinary action, the Committee shall review any applicable notices or orders and shall consult with the Enforcement Division of the Department on any pending investigations.

C. Disciplinary action may be initiated by the appropriate health regulatory board upon receipt of investigative information leading to a determination of probable cause that impairment constitutes a danger to patients or clients or upon a determination that the Committee decision for stayed disciplinary action is not consistent with provisions for a stay pursuant to § 54.1-2516 C (1-5).

18 VAC 76-10-50. Participation contract.

A. The participation contract between the Committee and the practitioner shall include at least the following elements:

1. The treatment plan to be followed by the practitioner;
2. Any provisions for withdrawal from practice or limitations on the scope of practice;
3. Consequences of failure to comply with the treatment plan;
4. Any releases for seeking information or records related to the impairment from family, peers, medical personnel or employers;
5. A brief written history of the nature of the impairment; and
6. Any other terms or requirements as may be deemed necessary by the Committee.

B. The participation contract shall specify that costs accruing to the individual practitioner, including but not limited to, treatment and body fluid screens, shall not be the responsibility of the Program.

18 VAC 76-10-60. Recovery contract.

The recovery contract between the Committee and the practitioner may include but not be limited to the following:

1. Length of contract;
2. Type, frequency, and conditions of drug screens;
3. Type and frequency of self-help meetings;
4. Stipulations for self-reporting;
5. Quarterly reports from employers, peers, or peer assistance programs;
6. Conditions and terms for completion and release from the Program; and
7. Any other terms or requirements as may be deemed necessary by the Committee.
18 VAC 76-10-65. Authority of the chairperson of the committee.

The Chairperson of the Committee, following consultation with the Program Coordinator, shall have the authority to act, including immediately vacating a stay, in cases where a program participant has been granted a stay and/or has been placed on probation by order of a health regulatory board and information has been received that a program participant no longer satisfies the conditions of § 54.1-2516 (C) 1-5 of the Code of Virginia.

III. Procedures for the Program.

18 VAC 76-10-70. Procedures for consultation with liaisons of health regulatory boards.

A. The Committee shall consult with the liaison of the relevant health regulatory board prior to making a determination on stayed disciplinary action; such consultation may include the following:

1. Eligibility of a practitioner for stayed disciplinary action;

2. The implications of the impairment on practice in the profession;

3. The circumstances of the impairment related to a possible violation of laws or regulation; or

4. Any other issues related to disciplinary action or the eligibility, treatment and recovery of a practitioner.

B. In its consultation with the board liaison, the Committee shall not disclose the name of the practitioner.

18 VAC 76-10-80. Procedures for exchange of information.

A. All disclosure of information shall be consistent with subsections B and C of § 54.1-2517 of the Code of Virginia.

B. Reporting requirement to health regulatory boards.

1. Upon receipt of an investigative report which alleges impairment, a health regulatory board shall request and the Committee shall report if the practitioner has been found eligible for stayed disciplinary action.

2. Upon a determination by the Committee that a practitioner has successfully completed the Program, the Committee shall report such completion to the respective health regulatory
board if the Committee has previously received an inquiry from that board regarding the practitioner’s participation.

C. Reporting requirements to the Director.

1. The contractor or contractors shall report at least annually to the Director and the Committee on statistics which indicate the general performance of the Program to include information and format stipulated in the contract.

2. At no time shall the report disclose the names of practitioners enrolled in the Program.

D. Records for the Program shall be retained by the contractor or contractors pursuant to terms of the contract.

18 VAC 76-10-90. Procedures for communication.

Except as provided for in § 54.1-2518 of the Code of Virginia, no communication with an applicant or a participant in the Program shall be initiated except through the contractor or through the Committee.

18 VAC 76-10-100. Conflicts of interests.

A. The Committee, contractor, or employees and agents of the contractor who refer practitioners for treatment, shall not refer a practitioner to a treatment facility where the contractor, employees or agents possess an investment interest, as defined in Chapter 24.1 of Title 54.1, unless it is an investment interest defined in § 54.1-2411 D of the Code of Virginia.

B. Likewise, the Committee, the contractor, or its employees and agents as noted above shall not have an investment interest in any laboratory which practitioners will be mandated to use for testing during the period of their contract.

C. The contractor shall offer multiple treatment options to any practitioner accepted into the program if treatment is a condition of participation unless the Committee authorizes an exception.

D. A Committee member who is providing treatment to a practitioner in the Program shall disqualify himself from any decision related to such practitioner.