WEST VIRGINIA CODE CHAPTER 30 ARTICLE 3D

WV Legislature

§30-3D-1. Definitions.

For the purposes of this article, the following words and terms have the meanings ascribed to them, unless the context clearly indicates otherwise.

(1) "Boards" mean the West Virginia Board of Medicine and Board of Osteopathy.

(2) "Major mental illness" means a diagnosis of a mental disorder within the axis of psychotic or affective or mood, or alcohol or chemical abuse, or alcohol or chemical dependency, as stipulated in the International Code of Diagnosis.

(3) "Physician and physician assistant" mean those health care professionals licensed by the West Virginia Board of Medicine or the West Virginia Board of Osteopathy.

(4) "Podiatrist" means those individuals licensed by the West Virginia Board of Medicine to undertake the practice of podiatry.

(5) "Qualifying illness" means the diagnosis of alcohol or substance abuse or alcohol or substance dependency or major mental illness.

WV Legislature

§30-3D-2. Physician health program.

(a) The boards are authorized to designate one or more physician health programs. To be eligible for designation by the boards, a physician health program shall:

(1) Agree to make their services available to all licensed West Virginia physicians, podiatrists and physicians' assistants with a qualifying illness;

(2) Provide for the education of physicians, podiatrists and physicians' assistants with respect to the recognition and treatment of alcohol, chemical dependency and mental illness and the availability of the physician health program for qualifying illnesses;

(3) Offer assistance to any person in referring a physician, podiatrist or physicians' assistant for purposes of assessment or treatment or both for a qualifying illness;

(4) Monitor the status of a physician, podiatrist or physicians' assistant who enters treatment for a qualifying illness pursuant to a written, voluntary agreement during treatment;

(5) Monitor the compliance of a physician, podiatrist or physicians' assistant who enters into a written, voluntary agreement for a qualifying illness with the physician health program setting forth a course for recovery;

(6) Agree to accept referrals from the boards to provide monitoring services pursuant to a board order; and

(7) Include such other requirements as the boards deem necessary.

(b) A designated physician health program shall:

(1) Set and collect reasonable fees, grants and donations for administration and services provided;

(2) Work collaboratively with the boards to develop model compliance agreements;

(3) Work collaboratively with the boards to identify qualified providers of services as may be needed by the individuals participating in the physician health program;

(4) Report to the boards no less than annually, statistics including the number of individuals served by license held; the number of compliant individuals; the number of individuals who have successfully completed their agreement period; and the number of individuals reported to a particular board for suspected noncompliance: Provided, That in making such report the physician health program shall not disclose any personally identifiable information relating to any physician, podiatrist or physician assistant participating in a voluntary agreement as provided herein.

(c) The fact that a physician, physician's assistant or podiatrist is participating in a

WV Legislature

designated physician health program is confidential, as is all physicians, podiatrists or physicians assistants patient information, acquired, created or used by the physician health program, and it shall remain confidential and may not be subject to discovery or subpoena in a civil case. The disclosure of participation and noncompliance to the appropriate board, as required by a compliance agreement, waives the confidentiality as to the appropriate board for disciplinary purposes.

(d) The physician health program and all persons engaged in physician health program activities are immune from civil liability and no civil action may be brought or maintained while the physician health program and all persons engaged in physician health program activities are acting in good faith and within the scope of their duties.

(e) The boards are immune from civil liability and no civil action may be brought or maintained against the boards or the state for an injury alleged to have been the result of the activities of the physician health program or the boards referral of an individual to the physician health program when they are acting in good faith and within the scope of their duties.

WV Legislature

§30-3D-3. Discretionary authority of boards to designate programs.

The West Virginia Board of Medicine and the West Virginia Board of Osteopathy have the sole discretion to designate physician health programs for licensees of the respective boards and no provision of this article may be construed to entitle any physician, podiatrist or physician assistant to the creation or designation of a physician health program for any individual qualifying illness or group of qualifying illnesses.

WV Legislature