Establishes Alternative to Discipline Program for impaired nurses through NJ Board of Nursing.
AN ACT establishing an Alternative to Discipline Program for nurses
and supplementing chapter 11 of Title 45 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. a. The New Jersey Board of Nursing shall establish an
Alternative to Discipline Program for board licensees who are
suffering from a chemical dependency or other impairment.

   The program shall permit these licensees to disclose their
dependency or impairment status to an intervention program
designated by the board, which shall provide confidential oversight of
the licensee during the period that the licensee seeks treatment for, and
follows a plan for recovery from, the dependency or impairment.

   b. The board shall designate an intervention program to provide
services under this act and shall delineate, in a formal agreement, the
responsibilities of the intervention program and its relationship to the
board.

   c. The board shall establish a five-member Alternative to Discipline
Committee to review matters involving licensees suffering from
chemical dependencies or other impairments.

      (1) The committee shall be comprised of one registered
professional nurse appointed by the president of the board; two
registered professional nurses with expertise in addiction
recommended by the New Jersey State Nurses Association; one
individual who represents the intervention program; and one individual
designated by the Commissioner of Health and Senior Services.

      (2) The committee shall meet on a regular basis. The executive
director of the board and the director of the designated intervention
program shall serve as staff to the committee and shall be available to
assist the committee at its meetings.

      (3) The committee shall perform the following duties, as well as
such others as the board may require:

         (a) accept from licensees, and from other members of the public,
reports, which include the individual's identity, concerning licensees
who may be suffering from chemical dependencies or other
impairments;

         (b) accept referrals, which include the individual's identity, from
the board;

         (c) accept coded summary reports from the designated intervention
program, without any information from which the licensee's identity
can be discerned;

         (d) promptly review each referral to determine if participation in
the program is appropriate;

         (e) accept confidential reports from the intervention program
regarding participating licensees and ensure that the identity of the
licensee is maintained in a limited-access file of the committee with disclosure provided only to those persons whom the committee determines have a need to know the licensee's identity; and

(f) transmit such reports as required by the board.

d. Any information concerning the conduct of a licensee provided to the board pursuant to this act or any other provision of law, is confidential and shall not be considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.), pending final disposition of the inquiry or investigation by the board, except for information required to be shared with the Division of Insurance Fraud Prevention in the Department of Banking and Insurance to comply with the provisions of section 9 of P.L.1983, c.320 (C.17:33A-9) or with any other law enforcement agency.

If the result of the inquiry or investigation is a finding of no basis for disciplinary action by the board, the information shall remain confidential and shall not be considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.), except that the board may release the information to a government agency, for good cause shown, upon an order of the Superior Court after notice to the licensee who is the subject of the information and an opportunity to be heard. The application for the court order shall be placed under seal.

e. A licensee who files a report with the committee pursuant to subparagraph (a) of paragraph (3) of subsection c. of this section, shall be deemed to have discharged his duty to report to the board pursuant to N.J.A.C.13:37-5.8 and 13:37-5.9.

f. As used in this section:

"Chemical dependency" means a condition involving the continued misuse of chemical substances.

"Chemical substances" is to be construed to include alcohol, drugs or medications, including those taken pursuant to a valid prescription for legitimate medical purposes and in accordance with the prescriber's direction, as well as those used illegally.

"Impairment" means an inability to function at an acceptable level of competency, or an incapacity to continue to practice with the requisite skill, safety and judgment, as a result of alcohol or chemical dependency, a psychiatric or emotional disorder, senility or a disabling physical disorder.

"Licensee" means a registered professional nurse, licensed practical nurse or other professional subject to regulation by the board.

2. Five years following the effective date of this act, the board shall determine, after study and consultation, whether the program established pursuant to this act should be continued, altered, expanded or discontinued. If the board concludes that the program should be terminated, those licensees currently participating shall be permitted to continue with the confidentiality protections provided in this act.
3. The board may, by regulation, revise the fees charged pursuant to N.J.A.C.13:37-5.5 or establish a surcharge to these fees to carry out the purposes of this act.

4. The board shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of this act.

5. This act shall take effect on the 90th day after enactment, but the New Jersey Board of Nursing may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

STATEMENT

This bill authorizes the New Jersey Board of Nursing to establish an Alternative to Discipline Program for board licensees (registered professional nurses, licensed practical nurses and other professionals subject to regulation by the board) who are suffering from a chemical dependency or other impairment.

The program will permit these licensees to disclose their dependency or impairment status to an intervention program designated by the board, which shall provide confidential oversight of the licensee during the period the licensee seeks treatment for and follows a plan for recovery from the dependency or impairment.

It is the intent of the sponsor that the board designate RAMP (Recovery and Monitoring Program), which is a program of the Institute of Nursing, as the intervention program. RAMP is currently approved by the board to provide intervention and treatment services to nurses in the State, and should be able to continue in this capacity under the provisions of this bill.

The bill directs the board to delineate, in a formal agreement, the responsibilities of the intervention program and its relationship to the board. The bill also provides that the board shall establish a five-member Alternative to Discipline Committee to review matters involving licensees suffering from chemical dependencies or other impairments. The committee shall be comprised of one registered professional nurse appointed by the president of the board; two registered professional nurses with expertise in addiction recommended by the New Jersey State Nurses Association; one individual who represents the intervention program; and one individual designated by the Commissioner of Health and Senior Services. The committee will meet on a regular basis, and the executive director of the board and the director of the designated intervention program will serve as staff to the committee.
The Alternative to Discipline Committee shall perform the following duties, as well as such others as the board may require:

-- accept from licensees, and from other members of the public, reports, with the individual’s identity, concerning licensees who may be suffering from chemical dependencies or other impairments (a licensee who files a report with the committee under this provision shall be deemed to have discharged his duty to report to the board pursuant to N.J.A.C.13:37-5.8 and 13:37-5.9, concerning reporting of unlawful conduct and licensee self reporting);

-- accept referrals, with the individual’s identity, from the board;

-- accept coded summary reports from the designated intervention program, without any information from which the licensee’s identity can be discerned;

-- promptly review each referral to determine if participation in the program is appropriate;

-- accept confidential reports from the intervention program regarding participating licensees and ensure that the identity of the licensee is maintained in a limited access file of the committee with disclosure provided only to those persons whom the committee determines have a need to know the licensee’s identity; and

-- transmit such reports as required by the board.

The bill provides that any information concerning the conduct of a licensee provided to the board pursuant to this bill or any other provision of law, is confidential and shall not be considered a public record under N.J.S.A.47:1A-1 et seq. and N.J.S.A.47:1A-5 et al., pending final disposition of the inquiry or investigation by the board, except for information required to be shared with the Division of Insurance Fraud Prevention in the Department of Banking and Insurance to comply with the provisions of N.J.S.A.17:33A-9 or with any other law enforcement agency. If the result of the inquiry or investigation is a finding of no basis for disciplinary action by the board, the information shall remain confidential and shall not be considered a public record, except that the board may release the information to a government agency, for good cause shown, upon an order of the Superior Court after notice to the licensee who is the subject of the information and an opportunity to be heard.

The bill provides that five years following the effective date of the bill, the board shall determine, after study and consultation, whether the program established pursuant to this bill should be continued, altered, expanded or discontinued. If the board concludes that the program should be terminated, those licensees currently participating shall be permitted to continue with the confidentiality protections provided in the bill.

Finally, the bill provides that the board may, by regulation, revise the fees charged pursuant to N.J.A.C.13:37-5.5 or establish a surcharge to these fees to carry out the purposes of the bill.