

AMENDMENTS TO LB227
(Amendments to ER26)

Introduced by Walz, 15.

1 1. Insert the following new sections:

2 Sec. 16. (1) For purposes of this section:

3 (a) Physician peer coach means any health care provider licensed to
4 practice medicine or surgery who provides coaching, training, or
5 mentoring through a physician wellness program to another health care
6 provider licensed to practice medicine or surgery under the Uniform
7 Credentialing Act or to a student of an accredited school or college of
8 medicine; and

9 (b) Physician wellness program means a program that (i) provides
10 coaching, training, and mentoring services by physician peer coaches or
11 coaches certified by a nationally recognized credentialing program for
12 coach practitioners for the purpose of addressing issues related to
13 career fatigue and wellness for individuals licensed to practice medicine
14 and surgery under the Uniform Credentialing Act and students of an
15 accredited school or college of medicine and (ii) is established,
16 organized, or contracted by any statewide association exempt from
17 taxation under section 501(c)(6) of the Internal Revenue Code of 1986
18 that primarily represents health care providers in multiple specialties
19 who are licensed to practice medicine and surgery under the Uniform
20 Credentialing Act. A physician wellness program does not include a
21 program of evaluation, monitoring, treatment, or referral.

22 (2) Any record of a person's participation in a physician wellness
23 program is confidential and not subject to discovery, subpoena, or a
24 reporting requirement to the department unless the person voluntarily
25 requests release of the information in writing or the physician peer
26 coach determines that the person's condition constitutes a danger to the

1 public health and safety by the person's continued practice of medicine
2 or surgery.

3 (3) A person who contacts or participates in a physician wellness
4 program shall not be required to disclose such contact or participation
5 to any health care facility, hospital, medical staff person,
6 accreditation organization, graduate medical education oversight body,
7 health insurer, government agency, or other entity as a condition of
8 participation, employment, credentialing, payment, licensure, compliance,
9 or other requirement.

10 Sec. 22. Section 38-1,125, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 38-1,125 (1) Except as otherwise provided in section 38-2897, every
13 credential holder shall, within thirty days of an occurrence described in
14 this subsection, report to the department in such manner and form as the
15 department may require whenever he or she:

16 (a) Has first-hand knowledge of facts giving him or her reason to
17 believe that any person in his or her profession:

18 (i) Has acted with gross incompetence or gross negligence;

19 (ii) Has engaged in a pattern of incompetent or negligent conduct as
20 defined in section 38-177;

21 (iii) Has engaged in unprofessional conduct as defined in section
22 38-179;

23 (iv) Has been practicing while his or her ability to practice is
24 impaired by alcohol, controlled substances, mind-altering substances, or
25 physical, mental, or emotional disability; or

26 (v) Has otherwise violated the regulatory provisions governing the
27 practice of the profession;

28 (b) Has first-hand knowledge of facts giving him or her reason to
29 believe that any person in another profession:

30 (i) Has acted with gross incompetence or gross negligence; or

31 (ii) Has been practicing while his or her ability to practice is

1 impaired by alcohol, controlled substances, mind-altering substances, or
2 physical, mental, or emotional disability; or

3 (c) Has been the subject of any of the following actions:

4 (i) Loss of privileges in a hospital or other health care facility
5 due to alleged incompetence, negligence, unethical or unprofessional
6 conduct, or physical, mental, or chemical impairment or the voluntary
7 limitation of privileges or resignation from the staff of any health care
8 facility when that occurred while under formal or informal investigation
9 or evaluation by the facility or a committee of the facility for issues
10 of clinical competence, unprofessional conduct, or physical, mental, or
11 chemical impairment;

12 (ii) Loss of employment due to alleged incompetence, negligence,
13 unethical or unprofessional conduct, or physical, mental, or chemical
14 impairment;

15 (iii) An adverse judgment, settlement, or award arising out of a
16 professional liability claim, including a settlement made prior to suit
17 in which the consumer releases any professional liability claim against
18 the credentialed person, or adverse action by an insurance company
19 affecting professional liability coverage. The department may define what
20 constitutes a settlement that would be reportable when a credential
21 holder refunds or reduces a fee or makes no charge for reasons related to
22 a consumer complaint other than costs;

23 (iv) Denial of a credential or other form of authorization to
24 practice by any jurisdiction due to alleged incompetence, negligence,
25 unethical or unprofessional conduct, or physical, mental, or chemical
26 impairment;

27 (v) Disciplinary action against any credential or other form of
28 permit he or she holds taken by any jurisdiction, the settlement of such
29 action, or any voluntary surrender of or limitation on any such
30 credential or other form of permit;

31 (vi) Loss of membership in, or discipline of a credential related to

1 the applicable profession by, a professional organization due to alleged
2 incompetence, negligence, unethical or unprofessional conduct, or
3 physical, mental, or chemical impairment; or

4 (vii) Conviction of any misdemeanor or felony in this or any other
5 jurisdiction.

6 (2) The requirement to file a report under subdivision (1)(a) or (b)
7 of this section shall not apply:

8 (a) To the spouse of the credential holder;

9 (b) To a practitioner who is providing treatment to such credential
10 holder in a practitioner-consumer relationship concerning information
11 obtained or discovered in the course of treatment unless the treating
12 practitioner determines that the condition of the credential holder may
13 be of a nature which constitutes a danger to the public health and safety
14 by the credential holder's continued practice; ~~or~~

15 (c) When a credential holder who is chemically impaired enters the
16 Licensee Assistance Program authorized by section 38-175 except as
17 otherwise provided in such section; or -

18 (d) To a credential holder who is providing coaching, training, or
19 mentoring services to another credential holder through a physician
20 wellness program as defined in section 16 of this act except as otherwise
21 provided in section 16 of this act.

22 (3) A report submitted by a professional liability insurance company
23 on behalf of a credential holder within the thirty-day period prescribed
24 in subsection (1) of this section shall be sufficient to satisfy the
25 credential holder's reporting requirement under subsection (1) of this
26 section.

27 2. On page 6, line 11, after "38-1,147" insert "and section 16 of
28 this act".

29 3. On page 7, line 21, after "38-1,147" insert "and section 16 of
30 this act".

31 4. Correct the operative date and repealer sections so that the

- 1 sections added by this amendment become operative three calendar months
- 2 after the adjournment of this legislative session.
- 3 5. Renumber the remaining sections and correct internal references
- 4 accordingly.