
Health Care & Wellness Committee

HB 2139

Brief Description: Creating a quality improvement program for the licensees of the medical quality assurance commission.

Sponsors: Representative Harris.

Brief Summary of Bill

- Requires the Medical Quality Assurance Commission (Commission) to establish a quality improvement program to address deficits or concerns in the practice of physicians and physician assistants.
- Permits the Commission to use professional development plans, letters of guidance, informal interviews, and quality assessments as part of the quality improvement program.

Hearing Date: 1/13/14

Staff: Alexa Silver (786-7190).

Background:

The Medical Quality Assurance Commission (Commission) licenses, establishes professional standards for, and disciplines physicians and physician assistants. The Commission consists of 21 members: 13 physicians, two physician assistants, and six members of the public.

Uniform Disciplinary Act.

Discipline of physicians and physician assistants is governed by the Uniform Disciplinary Act (UDA). Under the UDA, the Commission may take action against a physician or physician assistant for a variety of reasons, including unprofessional conduct, unlicensed practice, and the mental or physical inability to practice skillfully or safely.

To initiate discipline under the UDA, the Commission conducts an investigation and files a statement of charges. Following one or more hearings, the Commission may issue a finding that

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a physician or physician assistant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition. Sanctions available to the Commission include revocation or suspension of the license, restriction of the practice, compelled completion of a program or treatment, monitoring, reprimand, probationary conditions, fines, corrective action, and a surrender of the license.

In lieu of discipline, the Commission may refer a physician or physician assistant to a voluntary substance abuse monitoring program if the unprofessional conduct results from substance abuse. A physician or physician assistant who voluntarily participates in the program without being referred by the Commission is not subject to discipline for substance abuse.

Impaired Physician Program.

In addition to referring physicians and physician assistants to the voluntary substance abuse monitoring program, the Commission contracts with a nonprofit entity to implement an impaired physician program. An "impairment" is defined as an inability to practice medicine with reasonable skill and safety because of physical or mental illness. The impaired physician program involves evaluation, treatment, and monitoring of the physician.

Summary of Bill:

The Medical Quality Assurance Commission (Commission) must establish a quality improvement program to address deficits or concerns in practice that do not constitute unprofessional conduct and do not pose a threat to patient safety. "Quality improvement program" is defined to mean a program that seeks to educate and improve practitioner proficiency with regard to quality of care, professional standards, ethical guidelines, and other practice standard issues. The program is educational and non-disciplinary.

Establishment of the quality improvement program authorizes the Commission to:

- enter into supporting relationships with professionals who provide evaluation, education, or quality care improvement;
- receive and assess reports raising issues with a physician's or physician assistant's care or conduct;
- intervene in cases of questionable behavior or care;
- refer physicians or physician assistants for evaluation, education, or quality improvement;
- monitor education and quality improvement through meetings;
- provide monitoring and continuing rehabilitative support; and
- provide prevention, education, and continuing education.

The Commission may initiate an element of the program through the formal complaint process, the investigate process, or concerns shared informally with the Commission. To resolve a concern, complaint, or investigation related to a physician or physician assistant, the Commission may issue a professional development plan, issue a letter of guidance, compel an informal interview, or compel a quality assessment.

- *Professional development plans:* A physician or physician assistant is only eligible for a professional development plan if he or she has not entered into a plan in the previous five years. The physician or physician assistant is responsible for the costs of the plan. A professional development plan may not revoke, suspend, or restrict a license or assess a penalty. It also may not be used to resolve a complaint in which the appropriate

resolution involves a restriction on practice nor a complaint concerning a patient death, a felony, a matter in which a physician engaged in inappropriate sexual behavior with a patient, or a matter in which a physician inappropriately became financially or personally involved with a patient.

- *Letters of guidance:* A letter of guidance may detail areas of concern regarding practice, as well as remedies for the physician or physician assistant to educate him or herself. It is not a disciplinary finding and may not be used as evidence in civil proceedings, but the Commission may use the letter in administrative matters.
- *Informal interviews:* The purpose of the informal interview is to engage in a candid discussion between medical professionals regarding an area of practice or a situation of concern related to practice. The interview is attended by a commissioner, a medical consultant to the Commission, and the physician or physician assistant, who may invite legal representation. The interview does not preclude the Commission from proceeding with disciplinary action.
- *Quality assessments:* A quality assessment may include 360 evaluation, physical evaluation, mental evaluation, and practice review. The assessment may be conducted with an assessment entity approved by the Commission in cooperation with the physician's or physician assistant's employer. The employer may not use the quality assessment to initiate discipline. Results of the quality assessment are confidential.

The Commission is granted rule-making authority to implement the quality improvement program.

Commission meetings to discuss or adopt a non-disciplinary resolution are not subject to the Administrative Procedures Act or the Open Public Meetings Act. In addition, records and findings are not subject to disclosure under the Public Records Act and are not admissible in a civil, criminal, or administrative action, except a disciplinary proceeding. Participation in the quality improvement program does not imply that a physician or physician assistant violated the Medical Practice Act or failed to adhere to the standard of care.

Appropriation: None.

Fiscal Note: Requested on January 9, 2014.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.