

# HOUSE BILL REPORT

## HB 1328

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### As Reported By House Committee On:

Health Care

**Title:** An act relating to the uniform disciplinary act.

**Brief Description:** Revising the uniform disciplinary act.

**Sponsors:** Representatives Dyer, Dellwo and Backlund; by request of Department of Health.

**Brief History:**

**Committee Activity:**

Health Care: 2/7/95, 2/10/95 [DPS].

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### HOUSE COMMITTEE ON HEALTH CARE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Dyer, Chairman; Backlund, Vice Chairman; Hymes, Vice Chairman; Dellwo, Ranking Minority Member; Cody, Assistant Ranking Minority Member; Campbell; Casada; Conway; Crouse; Kessler; Morris; Sherstad and Skinner.

**Staff:** Bill Hagens (786-7131).

**Background:** The Uniform Disciplinary Act provides standardized procedures and sanctions for unprofessional conduct for the discipline of health care practitioners licensed, certified or registered by the Department of Health. The Secretary of Health serves as the disciplining authority for 16 health professions, and there are 21 independent boards or commissions which act as the disciplining authorities for those health professions respectively.

The disciplining authorities do not have consistent rules of procedure.

The disciplining authorities conduct disciplinary hearings under the guidance of a chairperson who is elected by the board or commission membership. Alternatively, a disciplinary authority, including the Secretary of Health, may appoint an administrative hearing officer who is an administrative judge. The disciplining authority, however, retains the authority to make final decisions.

While the act specifies a range of sanctions, there is no provision for using alternative dispute resolution processes to resolve problems.

A licensee is deemed to consent to any mental, physical or psychological examination when ordered by a disciplining authority. The disciplining authorities may order a mental or physical examination of a licensee who is the subject of an investigation, and failure of the licensee to submit to the examination constitutes immediate grounds for suspension of the license.

A refusal by licensees subject to complaint investigations to provide access to records in investigative audits, termed as "practice reviews", does not currently constitute unprofessional conduct.

Also, bribing a witness to prevent evidence in disciplinary proceedings does not constitute unprofessional conduct.

**Summary of Substitute Bill:** The disciplining authorities are required to adopt uniform procedural rules to ensure they have substantially consistent application in adjudicative proceedings, including enforcement provisions of time periods in the course of the disciplinary process. The rules are to also address the alternative use of a presiding officer to determine and issue decisions.

The disciplinary authorities may also use alternative dispute resolution processes such as mediation, arbitration or pre-hearing conferences to resolve cases.

The disciplining authorities may utilize a presiding officer from the department who acts as a health law judge, and to whom it may delegate final decisions.

Before a mental or physical examination can be ordered as a result of a complaint investigation, the licensee is accorded certain due process rights, including a written notice specifying the circumstances justifying the order; a summary of the evidence; the scope of the examination; and the right to contest the order within 20 days. If the order is contested, the matter is to be reviewed by neutral parties to determine whether there is reasonable cause. Upon failure of the licensee to respond to an order, the licensee is subject to suspension of the license.

The refusal to provide reasonable and timely access to practice reviews at facilities utilized by the licensee constitutes unprofessional conduct. A practice review is an investigative audit for an assessment of a licensee's practice.

Providing financial inducements by a licensee to any witness to prevent evidence in disciplinary proceeding is also specified as unprofessional conduct.

**Substitute Bill Compared to Original Bill:** The investigation of a licensee's practice must be limited to the nature of the complaint.

**Appropriation:** None.

**Fiscal Note:** Requested on January 30, 1995.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The Uniform Disciplinary Act should be updated to reflect the need for more consistency among the disciplining authorities, and to provide due process protections for licensees who become the subject of mental or physical examinations resulting from a court case.

**Testimony Against:** None.

**Testified:** Ron Weaver, Department of Health (pro); Patty Hayes, ARNPs United (pro); Nick Federici, Washington State Nurses Association (pro); and Carl Nelson, Washington State Medical Association (pro).