

HOUSE BILL REPORT

HB 2139

As Reported by House Committee On: Health Care & Wellness

Title: An act relating to creation of a quality improvement program for the licensees of the medical quality assurance commission.

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

Sponsors: Representatives Harris, Morrell and Cody.

Brief History:

Committee Activity:

Health Care & Wellness: 1/13/14, 1/23/14 [DPS].

Brief Summary of Substitute Bill

- Requires the Medical Quality Assurance Commission (Commission) to establish a pilot project to evaluate the efficacy of a non-disciplinary quality improvement program for physicians and physician assistants.
- Requires the Commission and the Department of Health to submit a report to the Legislature recommending whether the quality improvement program should be extended to all health care professions.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Clibborn, DeBolt, Green, G. Hunt, Jinkins, Manweller, Moeller, Morrell, Rodne, Ross, Short, Tharinger and Van De Wege.

Staff: Alexa Silver (786-7190).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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.

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 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.

In addition to referring physicians and physician assistants to the voluntary substance abuse monitoring program, the Commission contracts with a non-profit 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 Substitute Bill:

The Medical Quality Assurance Commission (Commission) must conduct a pilot project to evaluate the efficacy of a quality improvement program for physicians and physician assistants. The program is intended to address concerns in practice that do not constitute unprofessional conduct or pose a threat to patient safety. "Quality improvement program" means 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.

To resolve a concern, complaint, or investigation, the Commission may issue a professional development plan, issue a letter of guidance, or compel an informal interview.

- *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 must cover the cost of any education or other course of action required by the plan.

- *Letters of guidance:* A letter of guidance may detail areas of concern regarding practice, as well as educational remedies.
- *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. The interview does not preclude the Commission from proceeding with disciplinary action.

A non-disciplinary resolution may not:

- revoke or restrict a license;
- assess a penalty;
- resolve a complaint concerning a patient death, a felony, a matter in which the physician or physician assistant engaged in inappropriate sexual contact with a patient, or a matter in which a physician or physician assistant became financially or personally involved with a patient; or
- resolve a complaint for which the appropriate resolution may involve a restriction on practice.

Establishment of the quality improvement program authorizes the Commission to take a variety of actions, including intervening in cases of questionable behavior or care, entering into supporting relationships with professions, and referring physicians and physician assistants for education or quality improvement. The Commission must adopt rules necessary to implement the pilot project.

Commission meetings to discuss or adopt a non-disciplinary resolution are not subject to the Administrative Procedure Act or the Open Public Meetings Act. In addition, records and findings 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 law or failed to adhere to the standard of care.

By December 1, 2015, the Commission and the Department of Health must submit a joint report to the Legislature on the results of the pilot project. The report must include a recommendation of whether to extend the quality improvement program to all health care professions.

The quality improvement program pilot project expires July 1, 2016.

Substitute Bill Compared to Original Bill:

The substitute bill establishes the quality improvement program as a pilot project, requires a report to the Legislature, and expires the provisions of the bill on July 1, 2016. It removes the provision authorizing the Commission to order a quality assessment, as well as the exemption from the Public Records Act. It also limits the circumstances under which the Commission may use any non-disciplinary resolution, rather than just professional development plans.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Ethical standards require a higher level of conduct than legal standards related to professional conduct. When the Medical Quality Assurance Commission (Commission) sees a problem but does not have evidence to meet the standard of proof, it would be helpful to have these tools to engage the practitioner and intervene before patient harm is an issue. There is no intent to shift disciplinary action to non-disciplinary action when discipline is appropriate. These tools are available to many other states. The program might also be valuable to other health care professions.

The Commission would prefer to remove the requirement that the documents be kept confidential. Participation should be available to the public. Participation in the program would not be reportable to the national databank, because the program is not punitive.

(Opposed) None.

Persons Testifying: Representative Harris, prime sponsor; Tom Green and Micah Matthews, Medical Quality Assurance Commission; Carl Nelson, Washington State Medical Association; and Liz Tidyman.

Persons Signed In To Testify But Not Testifying: None.