

SENATE BILL REPORT

SHB 1135

As of March 20, 2015

Title: An act relating to education-based practice remediation for licensed health and health-related professions.

Brief Description: Concerning remediation plans for licensed health and health-related professions to resolve eligible complaints of unprofessional conduct.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Harris, Jinkins and Gregerson; by request of Department of Health).

Brief History: Passed House: 3/09/15, 98-0.

Committee Activity: Health Care: 3/17/15.

SENATE COMMITTEE ON HEALTH CARE

Staff: Evan Klein (786-7483)

Background: The Uniform Disciplinary Act (UDA) governs credentialed health professionals (license holders). Depending on the profession, the disciplinary authority may be the Secretary of Health, or a board or commission. Under the UDA, a disciplining authority may take action against a license holder for a variety of reasons, including misrepresentation or fraud, unlicensed practice, and the mental or physical inability to practice skillfully or safely.

A disciplining authority may initiate a disciplinary action after receiving a complaint or if the disciplining authority has reason to believe that the license holder engaged in unprofessional conduct. The disciplining authority will conduct an investigation into the suspected unprofessional conduct, and if there is reason to believe that misconduct occurred, may serve a statement of the charges on the license holder or follow an informal discipline process.

If the disciplining authority finds that unprofessional conduct occurred, it issues sanctions. Sanctions available include revocation or suspension of the license, payment of a fine, mandatory completion of a remedial education program, and probation. The issuance of sanctions must be reported to the national database, professional organizations and associations, other states' licensing authority, and the public.

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.

In lieu of discipline, if the disciplining authority finds that the misconduct was the result of substance abuse, then the disciplining authority may refer the license holder to a voluntary substance abuse monitoring program.

Summary of Bill: A remediation plan is an agreement between a disciplining authority and a license holder that includes one or more educational or corrective activities intended to resolve practice-related deficiencies. A license holder is a person registered, certified, or licensed as a health professional by the Secretary of Health.

A disciplining authority has the discretion to, after investigation, offer a license holder a remediation plan to resolve eligible complaints of unprofessional conduct. License holders do not have a right to a remediation plan, a hearing to modify a remediation plan, or an administrative review or appeal.

A remediation plan may not be used in any case where there is evidence of harm to a patient as a direct result of the license holder's practice-related deficiencies. A disciplining authority may not offer a remediation plan based on a number of other restrictions, including if there is evidence of the following:

- abuse, neglect, or financial exploitation;
- sexual misconduct;
- diversion of a controlled substance or legend drug for the license holder's personal use or distribution;
- use or distribution of a controlled substance or legend drug in any way other than for a legitimate purpose;
- substance abuse;
- conviction of any felony; or
- gross incompetence.

When a disciplining authority enters into a remediation plan with a license holder, the license holder does not admit to any acts of unprofessional conduct. The remediation plan is not a disciplinary action and is not reportable to national databases, professional associations, the media or other licensing boards in the state. The remediation plan must be posted on the Department of Health's website during the term of the plan, but must be removed from the website as soon as the license holder has completed the plan. The plan is not admissible in any civil, criminal, or administrative proceedings, except for disciplinary proceedings by the disciplining authority.

The remediation plan is subject to public disclosure.

A fee may be assessed against the license holder in an amount necessary to recover the costs of administering the plan.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: Remediation plans would be useful for many issues that do not rise to the level of requiring discipline and could help improve health care practice. Currently, the UDA only allows two options: disciplining or dismissing the case. For less serious offenses, such as minor deficiencies, remediation plans could help improve the quality of health care in Washington. Consumer unions and patient safety groups also recognize this need, but would like there to be a mechanism for case reconsideration if new information later comes to light.

Persons Testifying: PRO: Representative Cody, prime sponsor; Kristi Weeks, WA Dept. of Health; Rex Johnson, Consumers Union, Safe Patient Project; Vikki Owens, WA Advocates for Patient Safety.

Persons Signed in to Testify But Not Testifying: No one.