

CERTIFICATION OF ENROLLMENT

SENATE BILL 5722

65th Legislature
2018 Regular Session

Passed by the Senate March 3, 2018
Yeas 33 Nays 16

President of the Senate

Passed by the House February 28, 2018
Yeas 66 Nays 32

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5722** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5722

AS AMENDED BY THE HOUSE

Passed Legislature - 2018 Regular Session

State of Washington 65th Legislature 2017 Regular Session

By Senators Liias, Walsh, Ranker, Pedersen, Rivers, Keiser, Fain, Frockt, Hunt, and Kuderer

Read first time 02/06/17. Referred to Committee on Health Care.

1 AN ACT Relating to restricting the practice of conversion
2 therapy; amending RCW 18.130.020 and 18.130.180; and creating a new
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature intends to regulate
6 the professional conduct of licensed health care providers with
7 respect to performing conversion therapy on patients under age
8 eighteen.

9 (2) The legislature finds and declares that Washington has a
10 compelling interest in protecting the physical and psychological
11 well-being of minors, including lesbian, gay, bisexual, and
12 transgender youth, and in protecting its minors against exposure to
13 serious harms caused by conversion therapy.

14 NEW SECTION. **Sec. 2.** This act may not be construed to apply to:

15 (1) Speech that does not constitute performing conversion therapy
16 by licensed health care providers on patients under age eighteen;

17 (2) Religious practices or counseling under the auspices of a
18 religious denomination, church, or organization that do not
19 constitute performing conversion therapy by licensed health care
20 providers on patients under age eighteen; and

1 (3) Nonlicensed counselors acting under the auspices of a
2 religious denomination, church, or organization.

3 **Sec. 3.** RCW 18.130.020 and 2008 c 134 s 2 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Board" means any of those boards specified in RCW
8 18.130.040.

9 (2) "Clinical expertise" means the proficiency or judgment that a
10 license holder in a particular profession acquires through clinical
11 experience or clinical practice and that is not possessed by a lay
12 person.

13 (3) "Commission" means any of the commissions specified in RCW
14 18.130.040.

15 (4)(a) "Conversion therapy" means a regime that seeks to change
16 an individual's sexual orientation or gender identity. The term
17 includes efforts to change behaviors or gender expressions, or to
18 eliminate or reduce sexual or romantic attractions or feelings toward
19 individuals of the same sex. The term includes, but is not limited
20 to, practices commonly referred to as "reparative therapy."

21 (b) "Conversion therapy" does not include counseling or
22 psychotherapies that provide acceptance, support, and understanding
23 of clients or the facilitation of clients' coping, social support,
24 and identity exploration and development that do not seek to change
25 sexual orientation or gender identity.

26 (5) "Department" means the department of health.

27 ~~((+5))~~ (6) "Disciplinary action" means sanctions identified in
28 RCW 18.130.160.

29 ~~((+6))~~ (7) "Disciplining authority" means the agency, board, or
30 commission having the authority to take disciplinary action against a
31 holder of, or applicant for, a professional or business license upon
32 a finding of a violation of this chapter or a chapter specified under
33 RCW 18.130.040.

34 ~~((+7))~~ (8) "Health agency" means city and county health
35 departments and the department of health.

36 ~~((+8))~~ (9) "License," "licensing," and "licensure" shall be
37 deemed equivalent to the terms "license," "licensing," "licensure,"
38 "certificate," "certification," and "registration" as those terms are
39 defined in RCW 18.120.020.

1 (~~(9)~~) (10) "Practice review" means an investigative audit of
2 records related to the complaint, without prior identification of
3 specific patient or consumer names, or an assessment of the
4 conditions, circumstances, and methods of the professional's practice
5 related to the complaint, to determine whether unprofessional conduct
6 may have been committed.

7 (~~(10)~~) (11) "Secretary" means the secretary of health or the
8 secretary's designee.

9 (~~(11)~~) (12) "Standards of practice" means the care, skill, and
10 learning associated with the practice of a profession.

11 (~~(12)~~) (13) "Unlicensed practice" means:

12 (a) Practicing a profession or operating a business identified in
13 RCW 18.130.040 without holding a valid, unexpired, unrevoked, and
14 unsuspended license to do so; or

15 (b) Representing to a consumer, through offerings,
16 advertisements, or use of a professional title or designation, that
17 the individual is qualified to practice a profession or operate a
18 business identified in RCW 18.130.040, without holding a valid,
19 unexpired, unrevoked, and unsuspended license to do so.

20 **Sec. 4.** RCW 18.130.180 and 2010 c 9 s 5 are each amended to read
21 as follows:

22 The following conduct, acts, or conditions constitute
23 unprofessional conduct for any license holder under the jurisdiction
24 of this chapter:

25 (1) The commission of any act involving moral turpitude,
26 dishonesty, or corruption relating to the practice of the person's
27 profession, whether the act constitutes a crime or not. If the act
28 constitutes a crime, conviction in a criminal proceeding is not a
29 condition precedent to disciplinary action. Upon such a conviction,
30 however, the judgment and sentence is conclusive evidence at the
31 ensuing disciplinary hearing of the guilt of the license holder of
32 the crime described in the indictment or information, and of the
33 person's violation of the statute on which it is based. For the
34 purposes of this section, conviction includes all instances in which
35 a plea of guilty or nolo contendere is the basis for the conviction
36 and all proceedings in which the sentence has been deferred or
37 suspended. Nothing in this section abrogates rights guaranteed under
38 chapter 9.96A RCW;

1 (2) Misrepresentation or concealment of a material fact in
2 obtaining a license or in reinstatement thereof;

3 (3) All advertising which is false, fraudulent, or misleading;

4 (4) Incompetence, negligence, or malpractice which results in
5 injury to a patient or which creates an unreasonable risk that a
6 patient may be harmed. The use of a nontraditional treatment by
7 itself shall not constitute unprofessional conduct, provided that it
8 does not result in injury to a patient or create an unreasonable risk
9 that a patient may be harmed;

10 (5) Suspension, revocation, or restriction of the individual's
11 license to practice any health care profession by competent authority
12 in any state, federal, or foreign jurisdiction, a certified copy of
13 the order, stipulation, or agreement being conclusive evidence of the
14 revocation, suspension, or restriction;

15 (6) Except when authorized by RCW 18.130.345, the possession,
16 use, prescription for use, or distribution of controlled substances
17 or legend drugs in any way other than for legitimate or therapeutic
18 purposes, diversion of controlled substances or legend drugs, the
19 violation of any drug law, or prescribing controlled substances for
20 oneself;

21 (7) Violation of any state or federal statute or administrative
22 rule regulating the profession in question, including any statute or
23 rule defining or establishing standards of patient care or
24 professional conduct or practice;

25 (8) Failure to cooperate with the disciplining authority by:

26 (a) Not furnishing any papers, documents, records, or other
27 items;

28 (b) Not furnishing in writing a full and complete explanation
29 covering the matter contained in the complaint filed with the
30 disciplining authority;

31 (c) Not responding to subpoenas issued by the disciplining
32 authority, whether or not the recipient of the subpoena is the
33 accused in the proceeding; or

34 (d) Not providing reasonable and timely access for authorized
35 representatives of the disciplining authority seeking to perform
36 practice reviews at facilities utilized by the license holder;

37 (9) Failure to comply with an order issued by the disciplining
38 authority or a stipulation for informal disposition entered into with
39 the disciplining authority;

- 1 (10) Aiding or abetting an unlicensed person to practice when a
2 license is required;
- 3 (11) Violations of rules established by any health agency;
- 4 (12) Practice beyond the scope of practice as defined by law or
5 rule;
- 6 (13) Misrepresentation or fraud in any aspect of the conduct of
7 the business or profession;
- 8 (14) Failure to adequately supervise auxiliary staff to the
9 extent that the consumer's health or safety is at risk;
- 10 (15) Engaging in a profession involving contact with the public
11 while suffering from a contagious or infectious disease involving
12 serious risk to public health;
- 13 (16) Promotion for personal gain of any unnecessary or
14 inefficacious drug, device, treatment, procedure, or service;
- 15 (17) Conviction of any gross misdemeanor or felony relating to
16 the practice of the person's profession. For the purposes of this
17 subsection, conviction includes all instances in which a plea of
18 guilty or nolo contendere is the basis for conviction and all
19 proceedings in which the sentence has been deferred or suspended.
20 Nothing in this section abrogates rights guaranteed under chapter
21 9.96A RCW;
- 22 (18) The procuring, or aiding or abetting in procuring, a
23 criminal abortion;
- 24 (19) The offering, undertaking, or agreeing to cure or treat
25 disease by a secret method, procedure, treatment, or medicine, or the
26 treating, operating, or prescribing for any health condition by a
27 method, means, or procedure which the licensee refuses to divulge
28 upon demand of the disciplining authority;
- 29 (20) The willful betrayal of a practitioner-patient privilege as
30 recognized by law;
- 31 (21) Violation of chapter 19.68 RCW;
- 32 (22) Interference with an investigation or disciplinary
33 proceeding by willful misrepresentation of facts before the
34 disciplining authority or its authorized representative, or by the
35 use of threats or harassment against any patient or witness to
36 prevent them from providing evidence in a disciplinary proceeding or
37 any other legal action, or by the use of financial inducements to any
38 patient or witness to prevent or attempt to prevent him or her from
39 providing evidence in a disciplinary proceeding;
- 40 (23) Current misuse of:

1 (a) Alcohol;
2 (b) Controlled substances; or
3 (c) Legend drugs;
4 (24) Abuse of a client or patient or sexual contact with a client
5 or patient;
6 (25) Acceptance of more than a nominal gratuity, hospitality, or
7 subsidy offered by a representative or vendor of medical or health-
8 related products or services intended for patients, in contemplation
9 of a sale or for use in research publishable in professional
10 journals, where a conflict of interest is presented, as defined by
11 rules of the disciplining authority, in consultation with the
12 department, based on recognized professional ethical standards;
13 (26) Performing conversion therapy on a patient under age
14 eighteen.

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