
SENATE BILL 5282

State of Washington

66th Legislature

2019 Regular Session

By Senators Lias, Cleveland, Darneille, Short, Kuderer, Walsh, Brown, Randall, Dhingra, Rolfes, Billig, Das, Hunt, Keiser, and Pedersen

Read first time 01/16/19. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to informed consent for pelvic exams; reenacting
2 and amending RCW 18.130.180; adding a new section to chapter 18.130
3 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.130
6 RCW to read as follows:

7 (1) A health care provider licensed under this title may not
8 knowingly perform or authorize a student practicing under their
9 authority to perform a pelvic examination on a patient who is
10 anesthetized or unconscious unless:

11 (a) The patient or a person authorized to make health care
12 decisions for the patient gave specific informed consent to the
13 examination;

14 (b) The examination is necessary for diagnostic or treatment
15 purposes; or

16 (c) A court orders the performance of the examination for the
17 purpose of collecting evidence.

18 (2) A licensed health care provider who violates subsection (1)
19 of this section is subject to discipline pursuant to this chapter,
20 the uniform disciplinary act.

1 **Sec. 2.** RCW 18.130.180 and 2018 c 300 s 4 and 2018 c 216 s 2 are
2 each reenacted and amended to read as follows:

3 The following conduct, acts, or conditions constitute
4 unprofessional conduct for any license holder under the jurisdiction
5 of this chapter:

6 (1) The commission of any act involving moral turpitude,
7 dishonesty, or corruption relating to the practice of the person's
8 profession, whether the act constitutes a crime or not. If the act
9 constitutes a crime, conviction in a criminal proceeding is not a
10 condition precedent to disciplinary action. Upon such a conviction,
11 however, the judgment and sentence is conclusive evidence at the
12 ensuing disciplinary hearing of the guilt of the license holder of
13 the crime described in the indictment or information, and of the
14 person's violation of the statute on which it is based. For the
15 purposes of this section, conviction includes all instances in which
16 a plea of guilty or nolo contendere is the basis for the conviction
17 and all proceedings in which the sentence has been deferred or
18 suspended. Nothing in this section abrogates rights guaranteed under
19 chapter 9.96A RCW;

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

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

23 (4) Incompetence, negligence, or malpractice which results in
24 injury to a patient or which creates an unreasonable risk that a
25 patient may be harmed. The use of a nontraditional treatment by
26 itself shall not constitute unprofessional conduct, provided that it
27 does not result in injury to a patient or create an unreasonable risk
28 that a patient may be harmed;

29 (5) Suspension, revocation, or restriction of the individual's
30 license to practice any health care profession by competent authority
31 in any state, federal, or foreign jurisdiction, a certified copy of
32 the order, stipulation, or agreement being conclusive evidence of the
33 revocation, suspension, or restriction;

34 (6) Except when authorized by RCW 18.130.345, the possession,
35 use, prescription for use, or distribution of controlled substances
36 or legend drugs in any way other than for legitimate or therapeutic
37 purposes, diversion of controlled substances or legend drugs, the
38 violation of any drug law, or prescribing controlled substances for
39 oneself;

1 (7) Violation of any state or federal statute or administrative
2 rule regulating the profession in question, including any statute or
3 rule defining or establishing standards of patient care or
4 professional conduct or practice;

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

6 (a) Not furnishing any papers, documents, records, or other
7 items;

8 (b) Not furnishing in writing a full and complete explanation
9 covering the matter contained in the complaint filed with the
10 disciplining authority;

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

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

17 (9) Failure to comply with an order issued by the disciplining
18 authority or a stipulation for informal disposition entered into with
19 the disciplining authority;

20 (10) Aiding or abetting an unlicensed person to practice when a
21 license is required;

22 (11) Violations of rules established by any health agency;

23 (12) Practice beyond the scope of practice as defined by law or
24 rule;

25 (13) Misrepresentation or fraud in any aspect of the conduct of
26 the business or profession;

27 (14) Failure to adequately supervise auxiliary staff to the
28 extent that the consumer's health or safety is at risk;

29 (15) Engaging in a profession involving contact with the public
30 while suffering from a contagious or infectious disease involving
31 serious risk to public health;

32 (16) Promotion for personal gain of any unnecessary or
33 inefficacious drug, device, treatment, procedure, or service;

34 (17) Conviction of any gross misdemeanor or felony relating to
35 the practice of the person's profession. For the purposes of this
36 subsection, conviction includes all instances in which a plea of
37 guilty or nolo contendere is the basis for conviction and all
38 proceedings in which the sentence has been deferred or suspended.
39 Nothing in this section abrogates rights guaranteed under chapter
40 9.96A RCW;

- 1 (18) The procuring, or aiding or abetting in procuring, a
2 criminal abortion;
- 3 (19) The offering, undertaking, or agreeing to cure or treat
4 disease by a secret method, procedure, treatment, or medicine, or the
5 treating, operating, or prescribing for any health condition by a
6 method, means, or procedure which the licensee refuses to divulge
7 upon demand of the disciplining authority;
- 8 (20) The willful betrayal of a practitioner-patient privilege as
9 recognized by law;
- 10 (21) Violation of chapter 19.68 RCW;
- 11 (22) Interference with an investigation or disciplinary
12 proceeding by willful misrepresentation of facts before the
13 disciplining authority or its authorized representative, or by the
14 use of threats or harassment against any patient or witness to
15 prevent them from providing evidence in a disciplinary proceeding or
16 any other legal action, or by the use of financial inducements to any
17 patient or witness to prevent or attempt to prevent him or her from
18 providing evidence in a disciplinary proceeding;
- 19 (23) Current misuse of:
- 20 (a) Alcohol;
- 21 (b) Controlled substances; or
- 22 (c) Legend drugs;
- 23 (24) Abuse of a client or patient or sexual contact with a client
24 or patient;
- 25 (25) Acceptance of more than a nominal gratuity, hospitality, or
26 subsidy offered by a representative or vendor of medical or health-
27 related products or services intended for patients, in contemplation
28 of a sale or for use in research publishable in professional
29 journals, where a conflict of interest is presented, as defined by
30 rules of the disciplining authority, in consultation with the
31 department, based on recognized professional ethical standards;
- 32 (26) Violation of RCW 18.130.420;
- 33 (27) Performing conversion therapy on a patient under age
34 eighteen;
- 35 (28) Violation of section 1 of this act.

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