
ENGROSSED SUBSTITUTE HOUSE BILL 2071

State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Moyer, Prentice, Day and Braddock). Read first time March 6, 1991.

1 AN ACT Relating to the medical disciplinary board; amending RCW
2 18.130.180; adding new sections to chapter 18.72 RCW; and repealing RCW
3 18.72.040, 18.72.050, 18.72.055, 18.72.060, 18.72.070, and 18.72.080.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.72 RCW
6 to read as follows:

7 There is hereby created the Washington state medical disciplinary
8 board, which shall be composed of one holder of a valid license to
9 practice medicine and surgery to be appointed by the governor from each
10 congressional district now existing or hereafter created in the state,
11 four members representing the public, and one nonvoting member who is
12 a physician assistant authorized to practice under chapter 18.71A RCW.
13 The public members and the physician assistant member shall be
14 appointed by the governor. The governor shall stagger initial terms of
15 appointment and thereafter all terms of appointment shall be for four

1 years. The governor shall consider such persons who are recommended
2 for appointment by professional medical associations in the state. The
3 members representing the public shall be persons whose occupations are
4 other than the administration of health activities or the providing of
5 health services, who have no fiduciary obligations to a health facility
6 or other health agency, and who have no material financial interest in
7 the rendering of health services.

8 Nothing in this section shall affect the current terms of members
9 of the board who are serving on the board as of the effective date of
10 this act.

11 Vacancies on the board shall be filled promptly by the governor,
12 and a member appointed to fill a vacancy on the board shall continue to
13 serve until his or her successor is appointed.

14 The terms of office of members of the board shall not be affected
15 by the creation of either new boundaries for congressional districts or
16 additional districts.

17 The board shall be an administrative agency of the state of
18 Washington. The attorney general shall be the advisor to the board and
19 shall represent it in all legal proceedings.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.72 RCW
21 to read as follows:

22 To assist in identifying impairment related to alcohol abuse, the
23 board may obtain a copy of the driving record of a physician or a
24 physician assistant maintained by the department of licensing.

25 **Sec. 3.** RCW 18.130.180 and 1989 c 270 s 33 are each amended to
26 read as follows:

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

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

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

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

21 (4) Incompetence, negligence, or malpractice which results in
22 injury to a patient or which creates an unreasonable risk that a
23 patient may be harmed;

24 (5) Suspension, revocation, or restriction of the individual's
25 license to practice the profession by competent authority in any state,
26 federal, or foreign jurisdiction, a certified copy of the order,
27 stipulation, or agreement being conclusive evidence of the revocation,
28 suspension, or restriction;

29 (6) The possession, use, prescription for use, or distribution of
30 controlled substances or legend drugs in any way other than for

1 legitimate or therapeutic purposes, diversion of controlled substances
2 or legend drugs, the violation of any drug law, or prescribing
3 controlled substances for oneself;

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

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

9 (a) Not furnishing any papers or documents;

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

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

16 (9) Failure to comply with an order issued by the disciplining
17 authority or an assurance of discontinuance entered into with the
18 disciplining authority;

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

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

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

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

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

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

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

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

9 (18) The procuring, or aiding or abetting in procuring, a criminal
10 abortion;

11 (19) The offering, undertaking, or agreeing to cure or treat
12 disease by a secret method, procedure, treatment, or medicine, or the
13 treating, operating, or prescribing for any health condition by a
14 method, means, or procedure which the licensee refuses to divulge upon
15 demand of the disciplining authority;

16 (20) The willful betrayal of a practitioner-patient privilege as
17 recognized by law;

18 (21) Violation of chapter 19.68 RCW;

19 (22) Interference with an investigation or disciplinary proceeding
20 by willful misrepresentation of facts before the disciplining authority
21 or its authorized representative, or by the use of threats or
22 harassment against any patient or witness to prevent them from
23 providing evidence in a disciplinary proceeding or any other legal
24 action;

25 (23) Current misuse of:

26 (a) Alcohol;

27 (b) Controlled substances; or

28 (c) Legend drugs;

29 (24) Abuse of a client or patient or sexual contact with a client
30 or patient;

1 (25) Acceptance of more than a nominal gratuity, hospitality, or
2 subsidy offered by a representative or vendor of medical or health-
3 related products or services intended for patients, in contemplation of
4 a sale or for use in research publishable in professional journals,
5 where a conflict of interest is presented, as defined by rules of the
6 disciplining authority, in consultation with the department, based on
7 recognized professional ethical standards.

8 NEW SECTION. Sec. 4. The following acts or parts of acts are
9 each repealed:

10 (1) RCW 18.72.040 and 1986 c 300 s 2, 1977 c 71 s 1, & 1955 c 202
11 s 4;

12 (2) RCW 18.72.050 and 1982 1st ex.s. c 30 s 3, 1977 c 71 s 2, &
13 1955 c 202 s 5;

14 (3) RCW 18.72.055 and 1982 1st ex.s. c 30 s 4;

15 (4) RCW 18.72.060 and 1979 ex.s. c 111 s 2 & 1955 c 202 s 6;

16 (5) RCW 18.72.070 and 1955 c 202 s 7; and

17 (6) RCW 18.72.080 and 1955 c 202 s 8.