

HOUSE BILL REPORT

SSB 5365

As Reported By House Committee On:
Health Care

Title: An act relating to the uniform disciplinary act.

Brief Description: Revising the uniform disciplinary act.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Fairley, Deccio, Wojahn and Winsley; by request of Department of Health).

Brief History:

Committee Activity:

Health Care: 3/21/95, 3/31/95 [DPA].

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: Do pass as amended. Signed by 10 members: Representatives Dyer, Chairman; Backlund, Vice Chairman; Hymes, Vice Chairman; Cody, Assistant Ranking Minority Member; Campbell; Casada; Conway; Crouse; Sherstad and Skinner.

Minority Report: Do not pass. Signed by 2 members: Representatives Kessler and Morris.

Staff: John Welsh (786-7133).

Background: The Uniform Disciplinary Act provides standardized procedures and sanctions for unprofessional conduct for the discipline of health care practitioners licensed, certified or registered by the Department of Health. The Secretary of Health serves as the disciplining authority for 16 health professions, and there are 21 independent boards or commissions which act as the disciplining authorities for those health professions respectively.

The disciplining authorities do not have consistent rules of procedure.

The disciplining authorities conduct disciplinary hearings under the guidance of a chairperson who is elected by the board or commission membership. Alternatively, a disciplinary authority, including the Secretary of Health, may appoint an

administrative hearing officer who is an administrative judge. The disciplining authority, however, retains the authority to make final decisions.

While the act specifies a range of sanctions, there is no provision for using alternative dispute resolution processes to resolve problems.

A licensee is deemed to consent to any mental, physical or psychological examination when ordered by a disciplining authority. The disciplining authorities may order a mental or physical examination of a licensee who is the subject of an investigation, and failure of the licensee to submit to the examination constitutes immediate grounds for suspension of the license.

A refusal by licensees subject to complaint investigations to provide access to records in investigative audits, termed as "practice reviews," does not currently constitute unprofessional conduct.

Also, bribing a witness to prevent evidence in disciplinary proceedings does not constitute unprofessional conduct.

Summary of Amended Bill: The disciplining authorities are required to adopt uniform procedural rules to ensure they have substantially consistent application in adjudicative proceedings, including enforcement provisions of time periods in the course of the disciplinary process. The rules are to also address the alternative use of a presiding officer to determine and issue decisions.

The disciplinary authorities may also use alternative dispute resolution processes such as mediation, arbitration or pre-hearing conferences to resolve cases.

The disciplining authorities may utilize a presiding officer from the department who acts as a health law judge, and to whom it may delegate final decisions.

Before a mental or physical examination can be ordered as a result of a complaint investigation, the licensee is accorded certain due process rights, including a written notice specifying the circumstances justifying the order; a summary of the evidence; the scope of the examination; and the right to contest the order within 20 days. If the order is contested, the matter is to be reviewed by neutral parties to determine whether there is reasonable cause. Upon failure of the licensee to respond to an order, the licensee is subject to suspension of the license.

The refusal to provide reasonable and timely access to practice reviews at facilities utilized by the licensee constitutes unprofessional conduct. A practice review is an investigative audit for an assessment of a licensee's practice.

Providing financial inducements by a licensee to any witness to prevent evidence in disciplinary proceeding is also specified as unprofessional conduct.

The secretary is to establish a system for recruiting, appointing, and orienting public members to the regulatory boards.

The secretary is required to assist in coordinating the development of uniform guidelines to be adopted by the health boards and commissions for treating patients in chronic pain.

The secretary, at the request of a health professions board or association, is authorized to define by rule ethical standards in managed care contracting that foster compliance with patient care standards and professional conduct; promote quality medical practice; and protect the public health and safety. Violations of these ethical standards constitute unprofessional conduct under the Uniform Disciplinary Act.

The Secretary of Health is established as the disciplining authority under the Uniform Disciplinary Act for licensees of dentistry. This section takes effect immediately.

Amended Bill Compared to Substitute Bill: References to de minimus complaints are deleted. The secretary is to establish a system for appointing public members on boards, and assist in coordinating the development of uniform guidelines for treating chronic pain patients. The secretary may adopt by rule ethical standards recommended by health professions boards. The secretary is established as the disciplinary authority for licensed denturists.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed except for section 2 which takes effect immediately.

Testimony For: The Uniform Disciplinary Act should be updated to reflect the need for more consistency among the disciplining authorities, and to provide due process protections for licensees who become the subject of mental or physical examinations resulting from a court case.

Testimony Against: None.

Testified: Nick Federici, Washington State Nurses' Association (pro); and Ron Weaver, Department of Health (pro).