

HOUSE BILL REPORT

HB 2326

As Reported by House Committee On:

Health Care
Appropriations

Title: An act relating to the uniform disciplinary act for health professions.

Brief Description: Streamlining the health care disciplinary process.

Sponsors: Representatives Campbell and Cody.

Brief History:

Committee Activity:

Health Care: 1/13/04, 2/3/04 [DPS];

Appropriations: 2/5/04, 2/6/04 [DPS(HC)].

Brief Summary of Substitute Bill

- Shifts primary responsibilities of the health profession boards and commissions for investigations, summary suspensions, and charging decisions to the Secretary of Health.
- Requires that three specified acts of unprofessional conduct will result in the automatic revocation of a health care provider's license.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Cody, Chair; Morrell, Vice Chair; Benson, Campbell, Clibborn, Darneille, Edwards, Moeller, Rodne, Schual-Berke and Skinner.

Minority Report: Do not pass. Signed by 2 members: Representatives Bailey, Ranking Minority Member; and Alexander.

Staff: Chris Blake (786-7392).

Background:

The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 57 categories of credentialed health care providers. The UDA defines acts of unprofessional conduct, establishes sanctions for such acts, and provides general procedures for addressing complaints and taking disciplinary actions against a credentialed health care provider. Responsibilities in the disciplinary process are divided between the Secretary of Health (Secretary) and the 16

health profession boards and commissions according to the profession that the health care provider is a member of and the relevant step in the disciplinary process.

After investigating a complaint or report of unprofessional conduct, the Secretary or the board or commission must decide what disciplinary action is warranted by the evidence. The case may be closed without further action, pursued through an informal action in the form of a statement of allegations, or pursued through a formal action in the form of a statement of charges.

Upon a finding of an act of unprofessional conduct, the Secretary or the board or commission decides which sanctions should be ordered. These sanctions include: revocation of a license, suspension of a license, restriction of the practice, mandatory remedial education or treatment, monitoring of the practice, censure or reprimand, conditions of probation, payment of a fine, denial of a license request, corrective action, refund of billings, and surrender of the license. In the selection of a sanction the first consideration is what is necessary to protect or compensate the public, and the second consideration is what may rehabilitate the license holder or applicant.

Summary of Substitute Bill:

The authority of the health professions boards and commissions to investigate allegations of unprofessional conduct, appoint members to direct investigations, and conduct practice reviews is reduced to a consultative and assisting role, except they must assist in investigations involving standards of practice or where clinical expertise are involved. The Secretary of Health (Secretary) is given independent authority to conduct investigations and practice reviews. Complaints and reports of unprofessional conduct are to be sent to the Secretary, rather than the boards and commissions. After the completion of an investigation, the Secretary is authorized to determine the appropriate disposition of the case. The authority of the health professions boards and commissions to order a summary suspension of a health care provider's license is transferred to the Secretary.

Any combination of three findings of the following acts of unprofessional conduct within a 10-year period shall result in the revocation of the license:

- Violations of prescribing practices;
- Certain convictions related to the practice of the profession in question;
- Acts of abuse of a patient or client;
- Nonconsensual sexual contact with a patient or client; or
- Where death, severe injury, or a significant risk to the public results from (1) negligence, incompetence, or malpractice; (2) violation of laws regulating the profession in question; or (3) current substance abuse.

A one-time finding of specified mitigating circumstance may be issued which could excuse one of the violations. The mitigating circumstances may be issued when it is found that the procedure at issue was a high-risk procedure without any lower-risk alternatives, the patient

was aware of the procedure's risks, and the health care provider took remedial steps prior to the disciplinary action; there is strong potential for rehabilitation of the license holder; or there is strong potential for remedial education and training to prevent future harm to the public.

Substitute Bill Compared to Original Bill:

The Legislature states its intent not to change the relationship between the boards and commissions and impaired provider programs. The Secretary must consult with the boards and commissions in investigations related to standards of practice or where clinical expertise are necessary. The minimum sanctions for specified violations is eliminated. It is specified that the bill does not prevent a disciplining authority from revoking a license for fewer than three acts of unprofessional conduct.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The public does not believe that complaints about health care providers are being handled properly. Five percent of the health care providers account for half of all complaints. Accurate information about bad health care providers is not readily available to the public. Members of health professions boards and commissions are not adequately trained to make decisions about the ability of a health care provider to continue to practice. Current disciplinary procedures are inadequate to protect the public. This bill will better use the expertise of the boards and commissions. Using a single disciplining authority gives greater credibility, consistency, and efficiency to the disciplinary process.

Testimony Against: Specific sanctions for specific violations do not ensure equity and fairness. Not all mistakes warrant revocation of a license. Peer review is an effective tool that should not be abandoned. Some professions work in riskier environments than others.

Persons Testifying: (In support) Representative Campbell, prime sponsor; Marcia and Troy Holland; and Susan Shoblom, Department of Health.

(Opposed) Andrew Dolan, Washington State Medical Association.

(Concerns) Lucy Homans, Washington State Psychological Association.

Persons Signed In To Testify But Not Testifying: (Concerns) Lonnie Johns-Brown, Washington State Society for Clinical Social Work.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Health Care be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McIntire, Miloscia, Schual-Berke and Sump.

Minority Report: Do not pass. Signed by 11 members: Representatives Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cox, McDonald and Talcott.

Staff: Amy Hanson (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The fiscal note will be adjusted. There are two significant parts to this bill. One part of the bill changes the charging authority from the existing boards and commissions to the Department of Health (DOH) and there should be no costs associated with this provision. Costs increase significantly under the penalty matrix where there are some mandatory penalties. If those penalties go into place, DOH believes that there will be fewer stipulations to informal discipline (STIDs) which are informal negotiations between the profession and the department. The DOH believes that there will be fewer STIDs requested and more formal hearings because of the mandatory penalties if you are found in violation of your license even with just the three strike provision remaining in the bill.

Testimony Against: None.

Persons Testifying: Steve Meyer, Department of Health.

Persons Signed In To Testify But Not Testifying: None.