

2SHB 1071 - H AMD 670

By Representative Campbell

ADOPTED 2/8/2006

1 On page 2, after line 19, insert the following:

2 "NEW SECTION. **Sec. 3.** A new section is added to chapter
3 18.130 RCW to read as follows:

4 The secretary, with the advice and consultation of the other
5 disciplining authorities, shall adopt a schedule that defines
6 appropriate ranges of sanctions that are applicable to a finding
7 after a hearing that a license holder has committed unprofessional
8 conduct as defined in this chapter or the chapters specified in RCW
9 18.130.040(2). The schedule must identify aggravating and
10 mitigating circumstances that may enhance or reduce the sanction
11 imposed by the disciplining authority for each act of
12 unprofessional conduct. The schedule must apply to all
13 disciplining authorities. In addition, the secretary shall make
14 provisions for instances in which there are multiple findings of
15 unprofessional conduct. When establishing the schedule, the
16 secretary shall consider maintaining consistent sanction
17 determinations that balance the protection of the public's health
18 and the rights of health care providers of the different health
19 professions.

20 **Sec. 4.** RCW 18.130.050 and 1995 c 336 s 4 are each amended to
21 read as follows:

22 The disciplining authority has the following authority:

23 (1) To adopt, amend, and rescind such rules as are deemed
24 necessary to carry out this chapter;

25 (2) To investigate all complaints or reports of unprofessional
26 conduct as defined in this chapter and to hold hearings as provided
27 in this chapter;

28 (3) To issue subpoenas and administer oaths in connection with
29 any investigation, hearing, or proceeding held under this chapter;

1 (4) To take or cause depositions to be taken and use other
2 discovery procedures as needed in any investigation, hearing, or
3 proceeding held under this chapter;

4 (5) To compel attendance of witnesses at hearings;

5 (6) In the course of investigating a complaint or report of
6 unprofessional conduct, to conduct practice reviews;

7 ~~(7) ((To take emergency action ordering summary suspension of
8 a license, or restriction or limitation of the licensee's practice
9 pending proceedings by the disciplining authority;~~

10 ~~—(8))~~ To use a presiding officer as authorized in RCW
11 18.130.095(3) or the office of administrative hearings as
12 authorized in chapter 34.12 RCW to conduct hearings. The
13 disciplining authority shall make the final decision regarding
14 disposition of the license unless the disciplining authority elects
15 to delegate in writing the final decision to the presiding officer;

16 ~~((9))~~ (8) To use individual members of the boards to direct
17 investigations. However, the member of the board shall not
18 subsequently participate in the hearing of the case;

19 ~~((10))~~ (9) To enter into contracts for professional services
20 determined to be necessary for adequate enforcement of this
21 chapter;

22 ~~((11))~~ (10) To contract with licensees or other persons or
23 organizations to provide services necessary for the monitoring and
24 supervision of licensees who are placed on probation, whose
25 professional activities are restricted, or who are for any
26 authorized purpose subject to monitoring by the disciplining
27 authority;

28 ~~((12))~~ (11) To adopt standards of professional conduct or
29 practice;

30 ~~((13))~~ (12) To grant or deny license applications, and in the
31 event of a finding of unprofessional conduct by an applicant or
32 license holder, to impose any sanction consistent with section 2 of
33 this act against a license applicant or license holder provided by
34 this chapter;

35 ~~((14))~~ (13) To designate individuals authorized to sign
36 subpoenas and statements of charges;

37 ~~((15))~~ (14) To establish panels consisting of three or more
38 members of the board to perform any duty or authority within the
39 board's jurisdiction under this chapter;

1 (~~(16)~~) (15) To review and audit the records of licensed
2 health facilities' or services' quality assurance committee
3 decisions in which a licensee's practice privilege or employment is
4 terminated or restricted. Each health facility or service shall
5 produce and make accessible to the disciplining authority the
6 appropriate records and otherwise facilitate the review and audit.
7 Information so gained shall not be subject to discovery or
8 introduction into evidence in any civil action pursuant to RCW
9 70.41.200(3).

10 **Sec. 5.** RCW 18.130.060 and 2001 c 101 s 1 are each amended to
11 read as follows:

12 In addition to the authority specified in RCW 18.130.050, the
13 secretary has the following additional authority:

14 (1) To employ such investigative, administrative, and clerical
15 staff as necessary for the enforcement of this chapter;

16 (2) Upon the request of a board, to appoint pro tem members to
17 participate as members of a panel of the board in connection with
18 proceedings specifically identified in the request. Individuals so
19 appointed must meet the same minimum qualifications as regular
20 members of the board. Pro tem members appointed for matters under
21 this chapter are appointed for a term of no more than one year. No
22 pro tem member may serve more than four one-year terms. While
23 serving as board members pro tem, persons so appointed have all the
24 powers, duties, and immunities, and are entitled to the emoluments,
25 including travel expenses in accordance with RCW 43.03.050 and
26 43.03.060, of regular members of the board. The chairperson of a
27 panel shall be a regular member of the board appointed by the board
28 chairperson. Panels have authority to act as directed by the board
29 with respect to all matters concerning the review, investigation,
30 and adjudication of all complaints, allegations, charges, and
31 matters subject to the jurisdiction of the board. The authority to
32 act through panels does not restrict the authority of the board to
33 act as a single body at any phase of proceedings within the board's
34 jurisdiction. Board panels may make interim orders and issue final
35 decisions with respect to matters and cases delegated to the panel
36 by the board. Final decisions may be appealed as provided in
37 chapter 34.05 RCW, the Administrative Procedure Act;

1 (3) To establish fees to be paid for witnesses, expert
2 witnesses, and consultants used in any investigation and to
3 establish fees to witnesses in any agency adjudicative proceeding
4 as authorized by RCW 34.05.446;

5 (4) To conduct investigations and practice reviews at the
6 direction of the disciplining authority and to issue subpoenas,
7 administer oaths, and take depositions in the course of conducting
8 those investigations and practice reviews at the direction of the
9 disciplining authority;

10 (5) To take emergency action ordering summary suspension of a
11 license, or restriction or limitation of the license holder's
12 practice pending proceedings by the disciplining authority;

13 (6) To have the health professions regulatory program establish
14 a system to recruit potential public members, to review the
15 qualifications of such potential members, and to provide
16 orientation to those public members appointed pursuant to law by
17 the governor or the secretary to the boards and commissions
18 specified in RCW 18.130.040(2)(b), and to the advisory committees
19 and councils for professions specified in RCW 18.130.040(2)(a).

20 **Sec. 6.** RCW 18.130.160 and 2001 c 195 s 1 are each amended to
21 read as follows:

22 Upon a finding, after hearing, that a license holder or
23 applicant has committed unprofessional conduct or is unable to
24 practice with reasonable skill and safety due to a physical or
25 mental condition, the disciplining authority may issue an order
26 providing for one or any combination of the following, in
27 accordance with the schedule adopted by the secretary in section 2
28 of this act:

29 (1) Revocation of the license;

30 (2) Suspension of the license for a fixed or indefinite term;

31 (3) Restriction or limitation of the practice;

32 (4) Requiring the satisfactory completion of a specific program
33 of remedial education or treatment;

34 (5) The monitoring of the practice by a supervisor approved by
35 the disciplining authority;

36 (6) Censure or reprimand;

37 (7) Compliance with conditions of probation for a designated
38 period of time;

1 (8) Payment of a fine for each violation of this chapter, not
2 to exceed five thousand dollars per violation. Funds received
3 shall be placed in the health professions account;

4 (9) Denial of the license request;

5 (10) Corrective action;

6 (11) Refund of fees billed to and collected from the consumer;

7 (12) A surrender of the practitioner's license in lieu of other
8 sanctions, which must be reported to the federal data bank.

9 Any of the actions under this section may be totally or partly
10 stayed by the disciplining authority. In determining what action
11 is appropriate, the disciplining authority must consider the
12 schedule adopted by the secretary in section 2 of this act. Where
13 the schedule allows flexibility in determining the appropriate
14 sanction, the disciplining authority must first consider what
15 sanctions are necessary to protect or compensate the public. Only
16 after such provisions have been made may the disciplining authority
17 consider and include in the order requirements designed to
18 rehabilitate the license holder or applicant. All costs associated
19 with compliance with orders issued under this section are the
20 obligation of the license holder or applicant.

21 The licensee or applicant may enter into a stipulated
22 disposition of charges that includes one or more of the sanctions
23 of this section, but only after a statement of charges has been
24 issued and the licensee has been afforded the opportunity for a
25 hearing and has elected on the record to forego such a hearing.
26 The stipulation shall either contain one or more specific findings
27 of unprofessional conduct or inability to practice, or a statement
28 by the licensee acknowledging that evidence is sufficient to
29 justify one or more specified findings of unprofessional conduct or
30 inability to practice. The stipulation entered into pursuant to
31 this subsection shall be considered formal disciplinary action for
32 all purposes."

33 Correct the title.

EFFECT: Instructs the secretary of health after consulting
the other disciplining authorities, to establish a schedule of
ranges of sanctions, including aggravating and mitigating
circumstances, for acts of unprofessional conduct committed by

health care providers. Requires that all disciplining authorities follow the schedule.

Transfers the authority of the health professions boards and commissions to issue summary suspensions to the exclusive authority of the secretary.