

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5492

59th Legislature
2005 Regular Session

Passed by the Senate April 20, 2005
YEAS 49 NAYS 0

President of the Senate

Passed by the House April 19, 2005
YEAS 98 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5492** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5492

AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Deccio, Kline, Parlette, Mulliken and Pflug; by request of Department of Health)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to hospital reporting of restrictions on health
2 care practitioners; and amending RCW 70.41.210 and 18.130.070.

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

4 **Sec. 1.** RCW 70.41.210 and 1994 sp.s. c 9 s 743 are each amended to
5 read as follows:

6 (1) The chief administrator or executive officer of a hospital
7 shall report to the ((medical quality assurance commission when a
8 physician's clinical privileges are terminated or are restricted based
9 on a determination, in accordance with an institution's bylaws, that a
10 physician has either committed an act or acts which may constitute
11 unprofessional conduct. The officer shall also report if a physician
12 accepts voluntary termination in order to foreclose or terminate actual
13 or possible hospital action to suspend, restrict, or terminate a
14 physician's clinical privileges)) department when the practice of a
15 health care practitioner as defined in subsection (2) of this section
16 is restricted, suspended, limited, or terminated based upon a
17 conviction, determination, or finding by the hospital that the health
18 care practitioner has committed an action defined as unprofessional
19 conduct under RCW 18.130.180. The chief administrator or executive

1 officer shall also report any voluntary restriction or termination of
2 the practice of a health care practitioner as defined in subsection (2)
3 of this section while the practitioner is under investigation or the
4 subject of a proceeding by the hospital regarding unprofessional
5 conduct, or in return for the hospital not conducting such an
6 investigation or proceeding or not taking action. The department will
7 forward the report to the appropriate disciplining authority.

8 (2) The reporting requirements apply to the following health care
9 practitioners: Pharmacists as defined in chapter 18.64 RCW; advanced
10 registered nurse practitioners as defined in chapter 18.79 RCW;
11 dentists as defined in chapter 18.32 RCW; naturopaths as defined in
12 chapter 18.36A RCW; optometrists as defined in chapter 18.53 RCW;
13 osteopathic physicians and surgeons as defined in chapter 18.57 RCW;
14 osteopathic physician assistants as defined in chapter 18.57A RCW;
15 physicians as defined in chapter 18.71 RCW; physician assistants as
16 defined in chapter 18.71A RCW; podiatric physicians and surgeons as
17 defined in chapter 18.22 RCW; and psychologists as defined in chapter
18 18.83 RCW.

19 ~~((Such a))~~ (3) Reports made under subsection (1) of this section
20 shall be made within ((sixty)) fifteen days of the date ((action was
21 taken by the hospital's peer review committee or the physician's
22 acceptance of voluntary termination or restriction of privileges)):
23 (a) A conviction, determination, or finding is made by the hospital
24 that the health care practitioner has committed an action defined as
25 unprofessional conduct under RCW 18.130.180; or (b) the voluntary
26 restriction or termination of the practice of a health care
27 practitioner, including his or her voluntary resignation, while under
28 investigation or the subject of proceedings regarding unprofessional
29 conduct under RCW 18.130.180 is accepted by the hospital.

30 (4) Failure of a hospital to comply with this section is punishable
31 by a civil penalty not to exceed two hundred fifty dollars.

32 (5) A hospital, its chief administrator, or its executive officer
33 who files a report under this section is immune from suit, whether
34 direct or derivative, in any civil action related to the filing or
35 contents of the report, unless the conviction, determination, or
36 finding on which the report and its content are based is proven to not
37 have been made in good faith. The prevailing party in any action

1 brought alleging the conviction, determination, finding, or report was
2 not made in good faith, shall be entitled to recover the costs of
3 litigation, including reasonable attorneys' fees.

4 (6) The department shall forward reports made under subsection (1)
5 of this section to the appropriate disciplining authority designated
6 under Title 18 RCW within fifteen days of the date the report is
7 received by the department. The department shall notify a hospital
8 that has made a report under subsection (1) of this section of the
9 results of the disciplining authority's case disposition decision
10 within fifteen days after the case disposition. Case disposition is
11 the decision whether to issue a statement of charges, take informal
12 action, or close the complaint without action against a practitioner.
13 In its biennial report to the legislature under RCW 18.130.310, the
14 department shall specifically identify the case dispositions of reports
15 made by hospitals under subsection (1) of this section.

16 (7) The department shall not increase hospital license fees to
17 carry out this section before July 1, 2007.

18 **Sec. 2.** RCW 18.130.070 and 1998 c 132 s 8 are each amended to read
19 as follows:

20 (1) The disciplining authority may adopt rules requiring any
21 person, including, but not limited to, licensees, corporations,
22 organizations, health care facilities, impaired practitioner programs,
23 or voluntary substance abuse monitoring programs approved by the
24 disciplining authority and state or local governmental agencies, to
25 report to the disciplining authority any conviction, determination, or
26 finding that a license holder has committed an act which constitutes
27 unprofessional conduct, or to report information to the disciplining
28 authority, an impaired practitioner program, or voluntary substance
29 abuse monitoring program approved by the disciplining authority, which
30 indicates that the license holder may not be able to practice his or
31 her profession with reasonable skill and safety to consumers as a
32 result of a mental or physical condition. If a report has been made by
33 a hospital to the department pursuant to RCW 70.41.210, a report to the
34 disciplining authority is not required. To facilitate meeting the
35 intent of this section, the cooperation of agencies of the federal
36 government is requested by reporting any conviction, determination, or
37 finding that a federal employee or contractor regulated by the

1 ((disciplinary)) disciplining authorities enumerated in this chapter
2 has committed an act which constituted unprofessional conduct and
3 reporting any information which indicates that a federal employee or
4 contractor regulated by the ((disciplinary)) disciplining authorities
5 enumerated in this chapter may not be able to practice his or her
6 profession with reasonable skill and safety as a result of a mental or
7 physical condition.

8 (2) If a person fails to furnish a required report, the
9 disciplining authority may petition the superior court of the county in
10 which the person resides or is found, and the court shall issue to the
11 person an order to furnish the required report. A failure to obey the
12 order is a contempt of court as provided in chapter 7.21 RCW.

13 (3) A person is immune from civil liability, whether direct or
14 derivative, for providing information to the disciplining authority
15 pursuant to the rules adopted under subsection (1) of this section.

16 (4) The holder of a license subject to the jurisdiction of this
17 chapter shall report to the disciplining authority any conviction,
18 determination, or finding that the licensee has committed
19 unprofessional conduct or is unable to practice with reasonable skill
20 or safety. Failure to report within thirty days of notice of the
21 conviction, determination, or finding constitutes grounds for
22 disciplinary action.

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