

SENATE BILL REPORT

SB 5550

As of February 12, 2013

Title: An act relating to privileging and professional conduct reviews by health care professional review bodies.

Brief Description: Concerning privileging and professional conduct reviews by health care professional review bodies.

Sponsors: Senators Padden, Kline and Carrell.

Brief History:

Committee Activity: Law & Justice: 2/11/13.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Jessica Stevenson (786-7465)

Background: The state Health Care Peer Review Act (HCPRA) incorporates provisions of the federal Health Care Quality Improvement Act of 1986 (HCQIA). HCQIA was enacted for encouraging effective professional peer review to improve the quality of medical care and to reduce the cost of medical malpractice lawsuits. HCQIA aimed to accomplish these goals by providing incentives and protection for health care providers and physicians engaging in professional peer review processes.

HCQIA provides immunity from damages, except in actions relating to civil rights, for professional peer review bodies and persons serving on or assisting professional peer review bodies for actions taken by the body if those actions meet certain standards. In order to qualify for immunity, the professional peer review body action must be taken in the reasonable belief that the action was in furtherance of quality health care; after a reasonable effort to obtain the facts of the matter; after adequate notice and hearing procedures; and in the reasonable belief that the action was warranted by the known facts.

The state HCPRA incorporates the provisions of the federal HCQIA that provide immunity from damages. Additionally, HCPRA provides the exclusive remedy for actions taken by professional peer review bodies that are found to be based on matters not related to the competence or professional conduct of the health care provider. These actions are limited to appropriate injunctive relief and damages for lost earnings directly attributable to the professional peer review body's action.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Every hospital must maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. At a minimum, the program must include a quality improvement committee, a medical staff privileges sanction procedure, periodic review of qualifications of other health care providers who are employed or associated with the hospital, procedure for resolution of patient grievances, collection of information about the hospital's negative health care outcomes, maintenance of information about the entire program, education programs about quality improvement, and policies to ensure compliance with reporting requirements.

Summary of Bill: If immunity from damages under HCQIA and HCPRA does not apply, the only remedies available in a lawsuit by a health care provider for any action taken by a professional peer review body of health care providers are appropriate injunctive relief and damages for lost earnings directly attributable to the action taken by the professional review body. It is no longer required that a lawsuit by a health care provider for any action be based on matters not related to the competence or professional conduct of a health care provider to be eligible for the available remedies.

A hospital's coordinated quality improvement program must establish processes for a medical staff privileges sanction procedure and for review of other health care providers who are employed or associated with the hospital. The medical staff privileges sanction procedure must be conducted substantially in accordance with medical staff bylaws and applicable rules, regulations, or policies of medical staff. The credentials, physical and mental capacity, professional conduct including disruptive behavior, and competence in delivering health care services are reviewed initially and periodically as part of the staff privileges evaluation.

Additionally, the credentials, physical and mental capacity, professional conduct including disruptive behavior, and competence in delivering health care services of all other health care providers who are employed or associated with the hospital must be reviewed initially and periodically.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The bill is essential to patient safety and providing quality health care. In response to a recent case, the bill is attempting to remedy situations where immunity is lost because a decision is found against a doctor for competence or professional conduct, but immunity was not secured for other reasons. People who participate in peer review are volunteers that commit a lot of time to the process, so it is important to protect them. Not limiting immunity could result in millions of dollars in damages, which is happening in other states. Limiting damages encourages participation in the peer review process. It is important to ensure that a broad base of positions can

participate in the peer review process for fairness. The bill allows the hospital staff to establish its own procedures in which it will need to comply.

Persons Testifying: PRO: Katie Kolan, WA State Medical Assn.; Kathryn Beattie, WA State Hospital Assn.