

HOUSE BILL REPORT

HB 1340

As Reported by House Committee On: Health Care & Wellness

Title: An act relating to developing a process to allow pilot programs for health care professionals to learn new skills or roles, use existing skills in new circumstances, and accelerate training.

Brief Description: Developing a process to allow pilot programs for health care professionals to learn new skills or roles, use existing skills in new circumstances, and accelerate training.

Sponsors: Representatives Cody, Schmick, Moeller, Harris, Robinson, Ormsby and Riccelli.

Brief History:

Committee Activity:

Health Care & Wellness: 1/28/15, 1/30/15, 2/3/15, 2/4/15, 2/6/15 [DPS].

Brief Summary of Substitute Bill

- Permits the Department of Health to approve health workforce pilot projects that teach new skills to health care personnel, use existing skills in new settings, accelerate training, or teach new roles and skills to previously trained persons whose skills or license are not recognized in Washington.
- Permits a trainee in an approved project to perform services under a collaborative work agreement with a sponsoring organization and supervisor.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Jinkins, Johnson, Moeller, Robinson, Short, Tharinger and Van De Wege.

Minority Report: Do not pass. Signed by 3 members: Representatives Harris, Assistant Ranking Minority Member; Caldier and DeBolt.

Staff: Alexa Silver (786-7190).

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.

Background:

Regulation of Health Professions.

Credentialed health care providers are subject to professional discipline under the Uniform Disciplinary Act (UDA). Under the UDA, the disciplining authority may take action against a provider for a variety of reasons, including unlicensed practice and practice beyond the scope of practice, as defined by law or rule. Depending on the profession, the disciplining authority may be the Secretary of Health or one of 16 different boards and commissions.

California Health Workforce Pilot Projects.

The California Office of Statewide Health Planning and Development (Office) operates the Health Workforce Pilot Projects Program to allow organizations to evaluate new or expanded roles for health care professionals or new health care delivery alternatives. According to the Office, since 1973, 173 project applications have been submitted for approval, and more than 5,000 providers have been trained. Approved projects have covered expanded roles for registered nurses, physician assistants, dental hygienists and assistants, and pharmacists, among others.

Sunset Review.

For programs subject to the Sunset Act, the Joint Legislative Audit and Review Committee (JLARC) conducts a review of the program and provides a report with recommendations regarding whether the program should be retained, modified, or allowed to terminate. The JLARC completes a preliminary report during the calendar year prior to the date established for the program's termination. In conducting its review, the JLARC considers factors such as the extent to which the program has complied with legislative intent, the extent to which it meets performance measures, and the possible impact of termination or modification of the program.

Summary of Substitute Bill:

A sponsoring organization may request that the Department of Health (Department) grant approval to an educational or training program that does any of the following on a pilot program basis: (1) teaches new skills to existing categories of health care personnel; (2) uses existing skills in new circumstances or settings; (3) accelerates the training of existing categories of health care personnel; or (4) teaches new health care roles and skills to previously trained persons whose skills or license are not recognized in Washington.

Application Process.

To apply, the sponsoring organization must submit an application to the Department that includes a description of the project indicating:

- the project's aim;
- the intended impact on patient care, access to services, and cost;

- the category of person to be trained, as described by the type of project;
- a description of the category of persons to be trained, including types of previous required training, relevant credentials, and work experience;
- the tasks to be taught;
- the numbers of trainees and supervisors who will participate;
- identification and a description of the health care facilities to be used for training students;
- the types of patients likely to be seen or treated, including, where appropriate, average age, income, diagnoses, and ethnicity; and
- a description of how existing licensure laws prevent implementation of the project.

In addition, the application must contain a description of:

- the evaluation process to assess project outcomes;
- the baseline data and information to be collected;
- the nature of the program data that will be collected, as well as methods for collecting and analyzing it;
- provision for protecting the safety of patients; and
- a statement of previous experience in providing related health care services.

The application must also include a letter of support from the bargaining representative for a collective bargaining unit impacted by the project if the employees in the unit are employed by the sponsoring organization and provide care directly to patients.

Only a project submitted by a sponsoring organization may qualify for approval. A "sponsoring organization" is an organization, such as a hospital, nonprofit educational institution, or government agency, that is engaged in health or education activities and that exists on the effective date of the bill. Prior to approving a project, the Department may consult appropriate professional societies, regulatory entities, institutions of higher education, and other relevant experts. The Department must give priority to projects that operate in high-need areas, such as health provider shortage areas, central city areas, and disproportionate share hospitals. The maximum project length is 24 months, unless the Department determines that the project is likely to contribute substantially to the availability of high quality health services or more time is needed to obtain valid and reliable study results. The Department's decisions related to pilot projects are not appealable and are not subject to the Administrative Procedures Act.

By rule, the Department must develop a review and approval process and must set a reasonable application fee at a sufficient level to defray the cost of the program. The Department may not factor stakeholder consultations into the development of application fees, unless it is necessary to contract with a technical expert.

Trainee Participation in a Project.

Once a project is approved, a trainee participating in the project may perform health care services under a collaborative work agreement with the sponsoring organization and a supervisor. The general scope of the services is approved in advance by the Department. The collaborative work agreement must define the tasks or patient care functions that a supervisor may delegate to a trainee to perform under direct supervision and with the

appropriate training. In addition, it must identify the amount and types of liability insurance to be provided by the participating parties. The sponsoring organization may not charge a trainee a fee to participate.

A trainee is held to the same standard of care as a person who is otherwise qualified to perform the service. The trainee and supervisor are both responsible for their own individual actions, but the sponsoring organization and supervisor retain overall accountability for patient care. The trainee's participation in an approved project does not in itself constitute unlicensed practice or unprofessional conduct under the Uniform Disciplinary Act. Nothing in the bill modifies the standard of care that would otherwise apply to a trainee, supervisor, or sponsoring organization.

A patient who will be seen or treated by a trainee must be apprised of that fact and given the opportunity to refuse treatment. If the patient is not competent to grant informed consent, then the trainee may not provide treatment unless consent is obtained from a person authorized to give it. Consent to treatment does not constitute assumption of the risk. A trainee may refuse to perform any tasks that he or she reasonably believes may endanger patient safety, and the sponsoring organization is prohibited from retaliating against the trainee for doing so.

Project Evaluation.

The Department is required to develop a mechanism to monitor and evaluate approved projects. Sponsoring organizations must provide reports to the Department and any relevant disciplining authorities confirming that the parties are abiding by the approved scope of the project and are on target to complete the project by the completion date. The reports must also include specific information related to quality of care and patient safety. If the sponsoring organization does not file reports on time or if patient safety or quality of care is compromised, the Department may modify or revoke an approved project. Prior to concluding a project, the sponsoring organization may request a one-year extension.

Within 60 days of completing a project, the sponsoring organization must submit a report on the outcomes of the project. The report must address:

- the identified aim of the project and whether it was achieved;
- the degree to which the project had an impact on patient care, access to services, and cost;
- recommendations based on the project outcomes;
- quality of care and patient acceptance of the project;
- the new health skills taught or the extent that existing skills have been reallocated;
- the implication of the project for licensure laws, health services curricula, and health care delivery systems;
- the teaching methods used; and
- the extent that persons with the new skills could find employment if laws were changed to incorporate their skill.

At the conclusion of the project, the trainee must cease performing any tasks that require a health care credential and the Department must submit to the Legislature an approval and

validation of the sponsoring organization's report, a response to the report with different conclusions, or the Department's own report.

Sunset Review.

The program is subject to a sunrise review by the JLARC. The provisions of the bill are terminated under the Sunset Act effective July 1, 2025, and repealed July 1, 2026.

Substitute Bill Compared to Original Bill:

With respect to the application process, the substitute bill modifies the requirements for applications, limits the definition of "sponsoring organization" to those in existence on the bill's effective date, permits (rather than requires) the Department to consult with stakeholders, provides that the Department's decisions are not appealable, and directs that fees be set at a level to defray the costs of the program. With respect to trainee participation in approved projects, the substitute bill permits a trainee to refuse to perform tasks because of concerns about patient safety, prohibits the sponsoring organization from charging the trainee a fee, and provides that nothing in the bill modifies the standard of care. Changes related to evaluation of approved projects include: the requirement that reports be submitted to relevant disciplining authorities in addition to the Department; authorization for the Department to modify or revoke projects; a prohibition on trainees performing tasks requiring a credential beyond the conclusion of the project; a requirement that the Department submit a report to the Legislature; and addition of the JLARC sunset review.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The pilot projects would be followed by a sunrise review and then would go through the legislative process. Practical applications of scope of practice with resulting data will help inform policy decisions. This bill would also help with team approaches to the delivery of care. The bill addresses practitioner liability and patient safety, as well as due process notice and comment standards, because it requires that the Department of Health develop a review and approval process by rule.

(Opposed) The bill is very broad, and it is unclear what problem it is trying to address. The scopes of practice that pose a problem have not been identified. Innovative projects are taking place across the state with the help of federal grants. Institutional policies and job descriptions are a greater barrier to innovation than statutory constraints. These pilot projects pose risks to patient safety. It is unrealistic in many cases for a patient to refuse treatment. Health care workers do not want to be put out on a limb beyond their scope of training.

There is a lack of alignment in the bill about education and the provision of care. There are different analyses regarding the success of the California program; in the last decade, only one pilot project has moved through.

Persons Testifying: (In support) Representative Cody, prime sponsor; Lisa Thatcher, Washington State Hospital Association; Karla Greene, PMH Medical Center; Lucy Homans, Washington State Psychological Association; and Katie Kolan, Washington State Medical Association.

(Opposed) Lindsey Grad, SEIU 1199NW; and Sofia Aragon, Washington State Nurses Association and ARNPs United of Washington.

Persons Signed In To Testify But Not Testifying: None.