

SB 5282 - S AMD **918**
By Senator Liiias

ADOPTED 01/24/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 18.130
4 RCW to read as follows:

5 (1) A health care provider licensed under this title may not
6 knowingly perform or authorize a student practicing under their
7 authority to perform a pelvic examination on a patient who is
8 anesthetized or unconscious unless:

9 (a) The patient or a person authorized to make health care
10 decisions for the patient gave specific informed consent to the
11 examination; or

12 (b) The examination is necessary for diagnostic or treatment
13 purposes.

14 (2) A licensed health care provider who violates subsection (1)
15 of this section is subject to discipline pursuant to this chapter,
16 the uniform disciplinary act.

17 **Sec. 2.** RCW 18.130.180 and 2019 c 427 s 17 are each amended to
18 read as follows:

19 The following conduct, acts, or conditions constitute
20 unprofessional conduct for any license holder under the jurisdiction
21 of this chapter:

22 (1) The commission of any act involving moral turpitude,
23 dishonesty, or corruption relating to the practice of the person's
24 profession, whether the act constitutes a crime or not. If the act
25 constitutes a crime, conviction in a criminal proceeding is not a
26 condition precedent to disciplinary action. Upon such a conviction,
27 however, the judgment and sentence is conclusive evidence at the
28 ensuing disciplinary hearing of the guilt of the license holder of
29 the crime described in the indictment or information, and of the
30 person's violation of the statute on which it is based. For the
31 purposes of this section, conviction includes all instances in which

1 a plea of guilty or nolo contendere is the basis for the conviction
2 and all proceedings in which the sentence has been deferred or
3 suspended. Nothing in this section abrogates rights guaranteed under
4 chapter 9.96A RCW;

5 (2) Misrepresentation or concealment of a material fact in
6 obtaining a license or in reinstatement thereof;

7 (3) All advertising which is false, fraudulent, or misleading;

8 (4) Incompetence, negligence, or malpractice which results in
9 injury to a patient or which creates an unreasonable risk that a
10 patient may be harmed. The use of a nontraditional treatment by
11 itself shall not constitute unprofessional conduct, provided that it
12 does not result in injury to a patient or create an unreasonable risk
13 that a patient may be harmed;

14 (5) Suspension, revocation, or restriction of the individual's
15 license to practice any health care profession by competent authority
16 in any state, federal, or foreign jurisdiction, a certified copy of
17 the order, stipulation, or agreement being conclusive evidence of the
18 revocation, suspension, or restriction;

19 (6) Except when authorized by RCW 18.130.345, the possession,
20 use, prescription for use, or distribution of controlled substances
21 or legend drugs in any way other than for legitimate or therapeutic
22 purposes, diversion of controlled substances or legend drugs, the
23 violation of any drug law, or prescribing controlled substances for
24 oneself;

25 (7) Violation of any state or federal statute or administrative
26 rule regulating the profession in question, including any statute or
27 rule defining or establishing standards of patient care or
28 professional conduct or practice;

29 (8) Failure to cooperate with the disciplining authority by:

30 (a) Not furnishing any papers, documents, records, or other
31 items;

32 (b) Not furnishing in writing a full and complete explanation
33 covering the matter contained in the complaint filed with the
34 disciplining authority;

35 (c) Not responding to subpoenas issued by the disciplining
36 authority, whether or not the recipient of the subpoena is the
37 accused in the proceeding; or

38 (d) Not providing reasonable and timely access for authorized
39 representatives of the disciplining authority seeking to perform
40 practice reviews at facilities utilized by the license holder;

1 (9) Failure to comply with an order issued by the disciplining
2 authority or a stipulation for informal disposition entered into with
3 the disciplining authority;

4 (10) Aiding or abetting an unlicensed person to practice when a
5 license is required;

6 (11) Violations of rules established by any health agency;

7 (12) Practice beyond the scope of practice as defined by law or
8 rule;

9 (13) Misrepresentation or fraud in any aspect of the conduct of
10 the business or profession;

11 (14) Failure to adequately supervise auxiliary staff to the
12 extent that the consumer's health or safety is at risk;

13 (15) Engaging in a profession involving contact with the public
14 while suffering from a contagious or infectious disease involving
15 serious risk to public health;

16 (16) Promotion for personal gain of any unnecessary or
17 inefficacious drug, device, treatment, procedure, or service;

18 (17) Conviction of any gross misdemeanor or felony relating to
19 the practice of the person's profession. For the purposes of this
20 subsection, conviction includes all instances in which a plea of
21 guilty or nolo contendere is the basis for conviction and all
22 proceedings in which the sentence has been deferred or suspended.
23 Nothing in this section abrogates rights guaranteed under chapter
24 9.96A RCW;

25 (18) The procuring, or aiding or abetting in procuring, a
26 criminal abortion;

27 (19) The offering, undertaking, or agreeing to cure or treat
28 disease by a secret method, procedure, treatment, or medicine, or the
29 treating, operating, or prescribing for any health condition by a
30 method, means, or procedure which the licensee refuses to divulge
31 upon demand of the disciplining authority;

32 (20) The willful betrayal of a practitioner-patient privilege as
33 recognized by law;

34 (21) Violation of chapter 19.68 RCW or a pattern of violations of
35 RCW 48.49.020 or 48.49.030;

36 (22) Interference with an investigation or disciplinary
37 proceeding by willful misrepresentation of facts before the
38 disciplining authority or its authorized representative, or by the
39 use of threats or harassment against any patient or witness to
40 prevent them from providing evidence in a disciplinary proceeding or

1 any other legal action, or by the use of financial inducements to any
2 patient or witness to prevent or attempt to prevent him or her from
3 providing evidence in a disciplinary proceeding;

4 (23) Current misuse of:

5 (a) Alcohol;

6 (b) Controlled substances; or

7 (c) Legend drugs;

8 (24) Abuse of a client or patient or sexual contact with a client
9 or patient;

10 (25) Acceptance of more than a nominal gratuity, hospitality, or
11 subsidy offered by a representative or vendor of medical or health-
12 related products or services intended for patients, in contemplation
13 of a sale or for use in research publishable in professional
14 journals, where a conflict of interest is presented, as defined by
15 rules of the disciplining authority, in consultation with the
16 department, based on recognized professional ethical standards;

17 (26) Violation of RCW 18.130.420;

18 (27) Performing conversion therapy on a patient under age
19 eighteen;

20 (28) Violation of section 1 of this act."

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21 On page 1, line 1 of the title, after "exams;" strike the
22 remainder of the title and insert "amending RCW 18.130.180; adding a
23 new section to chapter 18.130 RCW; and prescribing penalties."

EFFECT: Removes the ability for a provider to conduct a pelvic
exam without consent based on a court order.

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