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**HOUSE BILL 2122**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Thai, Harris, Simmons, Reed, and Wylie

AN ACT Relating to wellness programs for certain health care professionals; amending RCW 18.130.020 and 18.130.070; and adding a new section to chapter 18.130 RCW.

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

**Sec.**  RCW 18.130.020 and 2018 c 300 s 3 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means any of those boards specified in RCW 18.130.040.

(2) "Clinical expertise" means the proficiency or judgment that a license holder in a particular profession acquires through clinical experience or clinical practice and that is not possessed by a lay person.

(3) "Commission" means any of the commissions specified in RCW 18.130.040.

(4)(a) "Conversion therapy" means a regime that seeks to change an individual's sexual orientation or gender identity. The term includes efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex. The term includes, but is not limited to, practices commonly referred to as "reparative therapy."

(b) "Conversion therapy" does not include counseling or
psychotherapies that provide acceptance, support, and understanding of
clients or the facilitation of clients' coping, social support, and
identity exploration and development that do not seek to change sexual
orientation or gender identity.

(5) "Department" means the department of health.

(6) "Disciplinary action" means sanctions identified in RCW 18.130.160.

(7) "Disciplining authority" means the agency, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.130.040.

(8) "Health agency" means city and county health departments and the department of health.

(9) "License," "licensing," and "licensure" shall be deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.120.020.

(10) "Physician wellness program" means a program to address issues related to career fatigue and wellness in physicians licensed under chapter 18.71 RCW, osteopathic physicians and surgeons licensed under chapter 18.57 RCW, and physician assistants licensed under chapter 18.71A RCW, that:

(a) Is established or contracted for by an employer of physicians and physician assistants, a nonprofit professional medical organization representing a specialty of physicians, or a statewide organization representing physicians and physician assistants;

(b) Does not allow as participants any person employed by, or with a financial ownership interest in, the program; and

(c) Does not include the monitoring of physicians who may be unable to practice medicine with reasonable skill and safety by reason of a health condition.

(11) "Practice review" means an investigative audit of records related to the complaint, without prior identification of specific patient or consumer names, or an assessment of the conditions, circumstances, and methods of the professional's practice related to the complaint, to determine whether unprofessional conduct may have been committed.

((~~(11)~~)) (12) "Secretary" means the secretary of health or the secretary's designee.

((~~(12)~~)) (13) "Standards of practice" means the care, skill, and learning associated with the practice of a profession.

((~~(13)~~)) (14) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.130.040 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a consumer, through offerings, advertisements, or use of a professional title or designation, that the individual is qualified to practice a profession or operate a business identified in RCW 18.130.040, without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

**Sec.**  RCW 18.130.070 and 2022 c 43 s 9 are each amended to read as follows:

(1)(a) The secretary shall adopt rules requiring every license holder to report to the appropriate disciplining authority any conviction, determination, or finding that another license holder has committed an act which constitutes unprofessional conduct, or to report information to the disciplining authority, physician health program, or voluntary substance use disorder monitoring program approved by the disciplining authority, which indicates that the other license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(b) The secretary may adopt rules to require other persons, including corporations, organizations, health care facilities, physician health programs, or voluntary substance use disorder monitoring programs approved by the disciplining authority, and state or local government agencies, to report:

(i) Any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct; or

(ii) Information to the disciplining authority, physician health program, or voluntary substance use disorder monitoring program approved by the disciplining authority, which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(c) If a report has been made by a hospital to the department pursuant to RCW 70.41.210 or by an ambulatory surgical facility pursuant to RCW 70.230.110, a report to the disciplining authority is not required. To facilitate meeting the intent of this section, the cooperation of agencies of the federal government is requested by reporting any conviction, determination, or finding that a federal employee or contractor regulated by the disciplining authorities enumerated in this chapter has committed an act which constituted unprofessional conduct and reporting any information which indicates that a federal employee or contractor regulated by the disciplining authorities enumerated in this chapter may not be able to practice his or her profession with reasonable skill and safety as a result of a mental or physical condition.

(d) Reporting under this section is not required by:

(i) Any entity with a peer review committee, quality improvement committee or other similarly designated professional review committee, or by a license holder who is a member of such committee, during the investigative phase of the respective committee's operations if the investigation is completed in a timely manner; ((~~or~~))

(ii) A physician health program or voluntary substance use disorder monitoring program approved by a disciplining authority under RCW 18.130.175 if the license holder is currently enrolled in the program, so long as the license holder actively participates in the program and the license holder's impairment does not constitute a clear and present danger to the public health, safety, or welfare; or

(iii) A physician wellness program, unless the program determines that there is a reasonable probability that the participant is not competent to continue to practice or is a danger to themselves or to the health and welfare of the participant's patients or the public.

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

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

(4)(a) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority:

(i) Any conviction, determination, or finding that he or she has committed unprofessional conduct or is unable to practice with reasonable skill or safety; and

(ii) Any disqualification from participation in the federal medicare program, under Title XVIII of the federal social security act or the federal medicaid program, under Title XIX of the federal social security act.

(b) Failure to report within thirty days of notice of the conviction, determination, finding, or disqualification constitutes grounds for disciplinary action.

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

All physician wellness program records including, but not limited to, case notes, progress notes, electronic and written correspondence within the program, and electronic and written correspondence between the program and the participant or other involved entities including, but not limited to, employers, credentialing bodies, referents, or other collateral sources, relating to wellness program participants are confidential and exempt from disclosure under chapter 42.56 RCW and shall not be subject to discovery by subpoena or admissible as evidence.

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