

HB 2122 - H AMD 1080

By Representative Thai

1 On page 2, line 22, after "a" strike "program" and insert "formal
2 program that uses peer-to-peer interactions"

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4 On page 2, line 27, after "established" strike "or contracted for"
5 and insert "in writing or contracted for in advance of any
6 communications for which the privilege is claimed"

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8 On page 4, beginning on line 29, after "program," strike all
9 material through "public" on line 32 and insert "so long as the
10 license holder is competent to practice with reasonable skill and
11 safety. If the license holder is not competent to practice with
12 reasonable skill and safety, or if a patient has been harmed, the
13 license holder must be reported by the physician wellness program
14 medical director or other licensee to the disciplining authority
15 according to requirements established and adopted in rule by the
16 Washington medical commission or, if permitted by rule, referred to a
17 physician health program or voluntary substance use disorder
18 monitoring program approved under RCW 18.130.175"

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20 On page 5, beginning on line 15, beginning with "All" strike all
21 material through "to," on line 16 and insert "(1)(a) Physician
22 wellness program records created specifically for, and collected and
23 maintained by the physician wellness program, including"

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25 On page 5, beginning on line 18, after "participant" strike all
26 material through "sources," on line 20

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1 On page 5, line 20, after "program" strike "participants" and
2 insert "activities,"

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4 On page 5, line 23, after "evidence." insert "Provided that, this
5 privilege does not protect information available from other original
6 sources and is not a shield to records outside the scope of this
7 privilege.

8 (b) In the event of a dispute over a claimed privilege, the party
9 seeking the information may request an in-camera review.

10 (c) This does not preclude introduction into evidence information
11 about that license holder collected and maintained in a physician
12 wellness program in any civil action by a license holder regarding:

13 (i) That individual's treatment or participation in the program;
14 or

15 (ii) The restriction or revocation of that license holder's
16 clinical or staff privileges when that license holder's records have
17 been shared under RCW 18.130.070(1)(d)(iii); or

18 (iii) Termination of that license holder's employment when that
19 license holder's records have been shared under RCW 18.130.070(1)(d)
20 (iii).

21 (d) The information admitted under subsection (1)(c) of this
22 section must not be reasonably discoverable, given the scope and
23 limits of discovery, from other non-privileged sources.

24 (2) In the case that the licensee is unable to practice with
25 reasonable skill and safety or a patient has been harmed, records will
26 be released to the disciplining authority or the physicians health
27 program or voluntary substance use disorder monitoring program
28 approved by a disciplining authority under RCW 18.130.175 in
29 accordance with RCW 18.130.070(1)(d)(iii) and rules adopted by the
30 Washington medical commission."

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EFFECT: Limits physician wellness programs to formal programs
that use peer-to-peer interactions. Requires employee wellness

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programs to be established in writing or in advance of any communications for which the privilege is claimed.

Removes the requirement that a physician wellness program make a report to the disciplining authority if 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. Instead, exempts the physician wellness program for the reporting requirement if the license holder is competent to practice with reasonable skill and safety, but requires the program to make a report if the license holder is not competent to practice with reasonable skill and safety, or if a patient has been harmed. Requires the report to be made by the physician wellness program medical director or other licensee according to requirements established and adopted in rule by the Washington Medical Commission or, if permitted by rule, to a physician health program or approved voluntary substance use disorder monitoring program.

Limits the records that must be treated as confidential to those created specifically for, and collected and maintained by, the physician wellness program. Removes records between the wellness program and other involved entities from the confidentiality protections. States that the privilege does not protect information available from other original sources and is not a shield to records outside the scope of the privilege. Allows a party seeking information in a dispute about the privilege to request an in-camera review. Allows the introduction into evidence of information about the license holder collected and maintained by the physician wellness program in any civil action by a license holder regarding: (1) the license holder's treatment or participation in the program; (2) the restriction or revocation of the license holder's clinical or staff privilege when the license holder's records have been disclosed under the provisions of the act allowing such disclosure; or (3) the termination of the license holder's employment when the license holder's records have been disclosed under the provisions of the act allowing such disclosure. Requires that the information disclosed not be reasonably discoverable, given the scope and limits of discovery, from other non-privileged sources. States that if the license holder is unable to practice with reasonable skill and safety, or if a patient has been harmed, records will be released to the disciplining authority or the physician health program or a voluntary substance use disorder monitoring program approved by a disciplining authority in accordance with the act and rules adopted by the Washington Medical Commission.

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