

SENATE BILL REPORT

ESHB 1340

As Reported by Senate Committee On:
Health & Long Term Care, March 14, 2023

Title: An act relating to actions by health professions disciplining authorities against license applicants and license holders for providing reproductive health care services or gender affirming treatment.

Brief Description: Concerning actions by health professions disciplining authorities against license applicants and license holders.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Riccelli, Thai, Berry, Ormsby, Chopp, Macri, Bergquist, Bateman, Simmons, Stonier, Berg, Duerr, Wylie, Senn, Taylor, Fitzgibbon, Cortes, Goodman, Reed, Lekanoff, Alvarado, Ramel, Kloba, Tharinger and Pollet).

Brief History: Passed House: 2/28/23, 57-40.

Committee Activity: Health & Long Term Care: 3/09/23, 3/14/23 [DP, DNP, w/oRec].

Brief Summary of Bill

- Establishes that participation in reproductive health care services or gender affirming treatment by health care providers does not constitute unprofessional conduct under the Uniform Disciplinary Act (UDA) and may not serve as the basis for professional discipline, with some exceptions.
- Establishes that a conviction or disciplinary action based on a health care provider's violation of another state's laws prohibiting participation in reproductive health care services or gender affirming treatment does not constitute unprofessional conduct under the UDA and may not serve as the basis for professional discipline, with some exceptions.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

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

Majority Report: Do pass.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Conway, Dhingra, Randall and Van De Wege.

Minority Report: Do not pass.

Signed by Senators Holy and Padden.

Minority Report: That it be referred without recommendation.

Signed by Senator Muzzall, Assistant Ranking Member.

Staff: Greg Attanasio (786-7410)

Background: The Uniform Disciplinary Act (UDA) establishes the framework for the regulation and oversight of health care providers by the relevant disciplining authorities for each health care profession. Under the UDA, disciplining authorities have the authority to investigate all complaints or reports of unprofessional conduct, defined under the UDA. Upon a finding, or after a hearing, that determines a license holder has committed unprofessional conduct, the disciplining authority is required to issue an order including appropriate sanctions.

Disciplining authorities may deny an application for licensure or grant a licensure with conditions under certain circumstances, including if the applicant has had their license to practice any health care profession suspended, revoked, or restricted in any jurisdiction, or if the applicant has committed an act defined as unprofessional conduct under the UDA. Among other acts and conditions, unprofessional conduct is defined under the UDA to include:

- suspension, revocation, or restriction of an individual's license to practice any health care profession in any jurisdiction;
- violation of any state or federal statute or administrative rule regulating the profession in question;
- violations of rules established by any health agency;
- practice beyond the scope of practice defined by law or rule; the conviction of any gross misdemeanor or felony relating to the practice of the person's profession; and
- procuring, or aiding or abetting in procuring, a criminal abortion.

Summary of Bill: The following does not constitute unprofessional conduct under the UDA, and cannot serve as the basis for a denial of an application for licensure, licensure renewal, or temporary practice permit, or for any other disciplinary action by a disciplining authority against an applicant or license holder, unless required by the interstate medical licensure compact:

- the provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender affirming treatment, by a license holder, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington; and
- a conviction or disciplinary action based on the license holder's violation of another

state's laws prohibiting the provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender affirming treatment, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington.

The definition of unprofessional conduct under the UDA is amended to exclude procuring, or aiding or abetting in procuring, a criminal abortion.

Nothing in the act shall be construed to expand the scope of practice of any license holder, nor does the act give any license holder the authority to act outside their scope of practice.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The bill ensures provider protections in light of new restrictions in other states. Providers in Washington should be able to provide legal procedures in this state without fear of disciplinary action, retribution, or criminal action. Doctors should be able to provide comprehensive care without fear.

CON: This bill does not protect parents' rights. Children do not have the capacity to consent to gender reassignment surgeries and this bill increase the likelihood of damage to citizens in the name of gender transition.

Persons Testifying: PRO: Representative Marcus Riccelli, Prime Sponsor; Dr Nari Heshmati, WA State Medical Association; Dr Peggy Hutchison, American College of Obstetricians and Gynecologists -- WA Section; Micah Matthews, Washington Medical Commission; Cara Winters, Planned Parenthood.

CON: Christina Callahan, Conservative Ladies of Washington.

Persons Signed In To Testify But Not Testifying: No one.