
HOUSE BILL 2122

State of Washington

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

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

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

5 **Sec. 1.** RCW 18.130.020 and 2018 c 300 s 3 are each amended to
6 read as follows:

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

9 (1) "Board" means any of those boards specified in RCW
10 18.130.040.

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

15 (3) "Commission" means any of the commissions specified in RCW
16 18.130.040.

17 (4)(a) "Conversion therapy" means a regime that seeks to change
18 an individual's sexual orientation or gender identity. The term
19 includes efforts to change behaviors or gender expressions, or to
20 eliminate or reduce sexual or romantic attractions or feelings toward

1 individuals of the same sex. The term includes, but is not limited
2 to, practices commonly referred to as "reparative therapy."

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

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

9 (6) "Disciplinary action" means sanctions identified in RCW
10 18.130.160.

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

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

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

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

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

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

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

36 (11) "Practice review" means an investigative audit of records
37 related to the complaint, without prior identification of specific
38 patient or consumer names, or an assessment of the conditions,
39 circumstances, and methods of the professional's practice related to

1 the complaint, to determine whether unprofessional conduct may have
2 been committed.

3 ~~((11))~~ (12) "Secretary" means the secretary of health or the
4 secretary's designee.

5 ~~((12))~~ (13) "Standards of practice" means the care, skill, and
6 learning associated with the practice of a profession.

7 ~~((13))~~ (14) "Unlicensed practice" means:

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

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

16 **Sec. 2.** RCW 18.130.070 and 2022 c 43 s 9 are each amended to
17 read as follows:

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

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

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

36 (ii) Information to the disciplining authority, physician health
37 program, or voluntary substance use disorder monitoring program
38 approved by the disciplining authority, which indicates that the
39 license holder may not be able to practice his or her profession with

1 reasonable skill and safety to consumers as a result of a mental or
2 physical condition.

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

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

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

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

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

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

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

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

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

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

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

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.130
14 RCW to read as follows:

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

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