

SENATE BILL REPORT

ESHB 2834

As Reported By Senate Committee On:
Health & Long-Term Care, February 26, 2004

Title: An act relating to improving health professions discipline.

Brief Description: Improving the discipline of health professions.

Sponsors: House Committee on Health Care (originally sponsored by Representatives Schual-Berke, Kagi, Cody, Lantz, Linville, Morrell, Wallace, Kenney, O'Brien, Miloscia, Sommers, Rockefeller and Darneille).

Brief History:

Committee Activity: Health & Long-Term Care: 2/25/04, 2/26/04 [DPA].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass as amended.

Signed by Senators Deccio, Chair; Winsley, Vice Chair; Brandland, Franklin, Keiser, Parlette and Thibaudeau.

Staff: Tanya Karwaki (786-7447)

Background: The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 57 categories of credentialed health care providers. The UDA defines acts of unprofessional conduct, establishes sanctions for such acts, and provides general procedures for addressing complaints and taking disciplinary actions against a credentialed health care provider. Responsibilities in the disciplinary process are divided between the Secretary of Health and the 16 health professions boards and commissions according to the profession that the health care provider is a member of and the relevant step in the disciplinary process.

After investigating a complaint or report of unprofessional conduct, the Secretary or the board or commission must decide what disciplinary action is warranted by the evidence. The case may be closed without further action, pursued through an informal action in the form of a statement of allegations, or pursued through a formal action in the form of a statement of charges. Upon a finding of an act of unprofessional conduct, the Secretary or the board or commission decides which sanctions should be ordered.

Summary of Amended Bill: The "Task Force on Improvement of Health Professions Discipline" is established to conduct a review of the current health professions disciplinary process. Specifically, the issues the task force must address include:

- The ability of the disciplining authorities to effectively safeguard the public while ensuring due process rights;
- The feasibility of developing a uniform performance measurement system for health professions discipline;

- Impediments to improving the health profession disciplinary system;
- The feasibility of allowing law enforcement agencies to share information from criminal investigations of health care providers;
- The consistency of investigation, charging, and sanctioning decisions across and within disciplining authorities;
- The benefits of limiting public disclosure of information relating to the disciplinary process;
- The frequency of and circumstances for variations from advisory guidelines regarding sanctions;
- Alternative fee structures for health care professionals;
- The feasibility of the secretary investigating and making case disposition decisions to ensure disciplinary consistency;
- The extent to which gathering necessary evidence during investigations is impeded by current statutory constraints;
- The feasibility of allowing Department of Health staff attorneys to serve as attorneys of record in the prosecution of health care practitioners; and
- The feasibility of allowing the Department of Health to freely exchange confidential information with other governmental agencies.

Members of the task force are appointed by the Governor and report its recommendations to the Legislature by October 1, 2005.

Any health care professional who makes a good faith report, files charges, or presents evidence to a disciplining authority against another member of a health profession relating to alleged unprofessional conduct or inability to practice safely due to a physical or mental condition is immune from a civil action for damages resulting from those activities. If a person brings a civil action challenging the immunity, and the court determines that the immunity applies, the reporting health care professional may recover expenses and reasonable attorneys' fees.

Physicians who make a good faith report to the Medical Quality Assurance Commission against another physician relating to alleged unprofessional conduct or inability to practice safely due to a physical or mental condition, as mandated by law, are immune from a civil action for damages resulting from the reporting. If a person brings a civil action challenging the immunity, and the court determines that the immunity applies, the reporting physician may recover expenses and reasonable attorneys' fees.

It is specified that the intent of the UDA is to reduce unprofessional conduct and unsafe practices in health care and to protect the public. It is further specified that full faith and credit will be applied to actions against health care professionals by out-of-state authorities.

Amended Bill Compared to Substitute Bill: The striking amendment corrects a technical error and provides clarification of both the composition of the task force and the issues that the task force must consider. It is clarified that the Secretary or the Secretary's designee shall be included in the task force and that the task force shall review the funding of all health professions identified in the Uniform Disciplinary Act. The task force is required to consider four additional issues: the feasibility of the Secretary investigating and making case disposition decisions to ensure disciplinary consistency; the extent to which gathering

necessary evidence during investigations is impeded by current statutory constraints; the feasibility of allowing Department of Health staff attorneys to serve as attorneys of record in the prosecution of health care practitioners; and the feasibility of allowing the Department of Health to freely exchange confidential information with other governmental agencies.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The Department of Health supports this bill. It would provide an opportunity to look at the discipline system overall. Amendments, however, are necessary.

Testimony Against: None.

Testified: Ron Weaver, DOH (pro).