

SENATE BILL REPORT

SB 5492

As Reported By Senate Committee On:
Health & Long-Term Care, February 28, 2005

Title: An act relating to hospital reporting of restrictions on health care practitioners.

Brief Description: Modifying hospital reporting of restrictions on health care practitioners.

Sponsors: Senators Keiser, Deccio, Kline, Parlette, Mulliken and Pflug; by request of Department of Health.

Brief History:

Committee Activity: Health & Long-Term Care: 2/10/05, 2/28/05 [DPS].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5492 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Thibaudeau, Vice Chair; Benson, Brandland, Franklin, Johnson, Kastama, Kline, Parlette and Poulsen.

Staff: Stephanie Yurcisin (786-7438)

Background: Hospitals are required to report to certain state or federal government agencies when they take specific actions to restrict or terminate some health care providers' licenses. In Washington, when a hospital terminates or restricts the clinical privileges of a physician because of his or her commission of any act of unprofessional conduct, it must notify the Medical Quality Assurance Commission within sixty days of the action.

Nationally, hospitals and other health care entities must report any professional review actions that adversely affect a physician's or dentist's clinical privileges to the National Practitioner Data Bank (NPDB). Hospitals also have the option of reporting to the NPDB when any adverse actions are taken against the clinical privileges of health care providers other than physicians and dentists. Reports must be made to the NPDB within fifteen days from the date that action was taken.

Summary of Substitute Bill: The requirement that hospitals report to the Medical Quality Assurance Commission the restriction or termination of a physician's privilege due to the commission of an act of unprofessional conduct is broadened to include additional categories of health care providers. The broader requirements direct hospitals to report to the Department of Health (Department) when the practice of a health care provider is restricted, suspended, limited, or terminated due to the commission of an act of unprofessional conduct, or if it is voluntarily or involuntarily restricted or terminated to avoid action by a hospital.

The health professions that are subject to the reports are: pharmacists, occupational therapists, physical therapists, audiologists, speech-language pathologists, advanced registered nurse

practitioners, dentists, naturopathic physicians, optometrists, osteopathic physicians and surgeons, osteopathic physicians assistants, physicians, physician assistants, podiatrists, and psychologists.

The time for a hospital to report to the Department is reduced from sixty days to fifteen days. The fifteen day period will begin tolling: (1) from the date of the finding by the hospital that the practitioner has committed unprofessional conduct or (2) from the date of the voluntary restriction or termination.

The maximum penalty for a hospital that does not comply with the reporting requirements remains \$250. A hospital, hospital administrator, or hospital executive officer that files a report is immune from liability related to the report.

The Department of Health must forward the reports received to the appropriate disciplining authority within fifteen days, and is also obliged to notify a hospital that has made a report of the results of a disposition as decided by the disciplining authority within fifteen days. The Department of Health may not increase hospital license fees to carry out this section before July 1, 2007.

Substitute Bill Compared to Original Bill: The substitute bill returns the penalty for failure to comply with reporting restrictions to \$250; the original bill had raised the ceiling to \$10,000. The mere offer by a hospital to allow a practitioner to voluntarily restrict or terminate privileges would not be reportable as it would under the original bill.

The substitute clarifies when the 15-day tolling period begins, and creates deadlines for when the Department of Health must pass along the report to the disciplining authority and for when it must report the results back to the hospital. It also inserts a provision that prohibits the Department of Health from increasing hospital license fees to carry out this section until July 2007.

The requirement that a report be filed "in good faith" for a hospital, its chief administrator, or its executive officer to be immune from suit in any civil action related to the filing or contents of the report is removed.

The substitute bill also clarifies that if a report has been made by a hospital to the Department of Health, it does not also need to file the report with the disciplining authority.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: This bill helps to prevent bad practitioners from being able to move from hospital to hospital. Currently, each hospital can define what to report, which leads to different standards. The current fine is too low to be a deterrent. Having all of the information flow through the Department of Health would help them to have complete knowledge of practitioner.

Testimony Against: Most of this type of reporting already occurs under federal and state law. The Department of Health has not offered up an objective standard for reporting. This is the only place in hospital licensing statutes with a possibility for a civil penalty; it would be better for the Department to use its sanctioning authority instead. The proposed fine is excessive. It doesn't make sense to limit the professions as listed; it should include all professionals licensed under chapter 18 of the RCW.

Who Testified: PRO: Laurie Jenkins, Department of Health.

CON: Lisa Thatcher, Washington State Hospital Association; Andy Dolan, Washington State Medical Association.