

HOUSE BILL REPORT

HB 2816

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to health care devices and procedures.

Brief Description: Regulating certain health care devices and procedures.

Sponsors: Representatives Campbell, Morrell and Green.

Brief History:

Committee Activity:

Health Care & Wellness: 1/21/08, 1/31/08 [DPS].

Brief Summary of Substitute Bill

- Authorizes the Secretary of Health and specific health profession boards and commissions to adopt rules to identify which instruments or procedures for treatment or diagnostic evaluation are prohibited or approved for use by identified health care providers.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Cody, Chair; Morrell, Vice Chair; Barlow, Campbell, Green, Moeller, Pedersen, Schual-Berke and Seaquist.

Minority Report: Do not pass. Signed by 4 members: Representatives Hinkle, Ranking Minority Member; Alexander, Assistant Ranking Minority Member; Condotta and DeBolt.

Staff: Chris Blake (786-7392).

Background:

The Secretary of Health (Secretary) and the 16 health professions boards and commissions regulate approximately 300,000 credentialed health care providers in 62 professions. These credentialing entities issue credentials, establish minimum standards for professional practice, and take disciplinary actions against credentialed health care providers who engage in unprofessional conduct.

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

General qualifications and scopes of practice for each health profession are established by the Legislature. As authorized, the Secretary and the boards and commissions may establish specific standards within the scope of practice established in statute. The Chiropractic Quality Assurance Commission has adopted rules to identify which procedures and instruments for treatment or diagnostic evaluation may be used by chiropractors.

Summary of Substitute Bill:

Several health professions licensing entities are authorized to adopt rules to identify instruments, categories of instruments, procedures or categories of procedures for treatment or diagnostic evaluation that are approved or prohibited for use by health care providers in 10 health professions governed by those licensing entities.

The rules must consider several factors to determine the instrument or procedure's status, including:

- the instruction in the use of the instruments or procedures in the education programs of the profession;
- the scientific basis for the use of the instruments or procedures;
- the relationship of the use of the instruments or procedures to patient care; and
- a comparison of potential risks and benefits to the patient.

Manufacturers or vendors of the instrument or a health care provider may request that the authority determine the classification of a procedure, category of procedures, instrument or category of instruments. It is unprofessional conduct for a health care provider to use a prohibited instrument, category of instruments, procedures, or category of procedures.

The authority to adopt rules applies to the following authorities for specific professions that each regulates:

- Chiropractic Quality Assurance Commission for chiropractors;
- Dental Quality Assurance Commission for dentists;
- Medical Quality Assurance Commission for physicians and physician assistants;
- Nursing Care Quality Assurance Commission for advanced registered nurse practitioners;
- Board of Osteopathic Medicine and Surgery for osteopathic physicians and osteopathic physician assistants;
- Board of Physical Therapy for physical therapists;
- Podiatric Medical Board for podiatric physicians; and
- Secretary in coordination with the Naturopathic Practice Advisory Committee, for naturopaths.

Legislative findings are made that recognize that the acceptance of uses for instruments and procedures continues to evolve. It is the stated intent of the Legislature to prohibit the use of instruments and procedures that have no legitimate health care use.

Substitute Bill Compared to Original Bill:

The substitute bill makes the adoption of rules relating to prohibited instruments or categories of instruments permissive, rather than mandatory.

It is unprofessional conduct to use a prohibited instrument, category of instruments, procedure, or category of procedures. The failure to inquire into an item's status is removed as an act of unprofessional conduct.

Legislative declarations are added to the substitute bill pertaining to the finding that the acceptance of uses for instruments and procedures continues to evolve and the intent to prohibit the use of instruments and procedures that have no legitimate health care use.

Appropriation: None.

Fiscal Note: Requested January 18, 2008.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The Chiropractic Commission has established similar rules regarding prohibited instruments which have worked well to protect consumers from medical devices that do not live up to their claims.

(With concerns) The public should be protected from unscrupulous health care providers who mislead patients by making false promises about the benefits of medical devices, however, the rulemaking requirements would be burdensome and legitimate health care practices could be restricted. This is not consistent with the national system that is in place to review medical devices. This would be overly burdensome for the boards and commissions to keep up with the required rulemaking. The Health Care Authority's experience conducting evidence-based reviews takes several months to complete and this could take just as long. This would result in additional expense that would increase licensing fees.

Persons Testifying: (In support) Representative Campbell, prime sponsor.

(With concerns) Laurie Jinkins, Department of Health; Tamie Warnke, Washington State Nurses Association; Melissa Johnson, Physical Therapy Association of Washington; and Eva Miller, Washington Association of Naturopathic Practice.

Persons Signed In To Testify But Not Testifying: None.