
**Health Care & Wellness
Committee**

HB 2883

Brief Description: Improving patient safety through increased regulation of health professionals.

Sponsors: Representatives Green, Roberts and Morrell; by request of Governor Gregoire.

Brief Summary of Bill

- Establishes specific circumstances in which a disciplining authority may deny an application for a health care provider credential or issue the credential subject to conditions.
- Establishes penalties for credentialed health care providers who fail to submit documents and records upon request of a disciplining authority.
- Authorizes the Secretary of Health to receive and use criminal history information for licensing and investigative purposes.

Hearing Date: 1/28/08

Staff: Chris Blake (786-7392).

Background:

Health Professions Discipline

The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 62 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 the Department of Health (Secretary) and the 14 health profession boards and commissions (collectively known as "disciplining authorities") according to the profession that the health care provider is a member of and the relevant step in the disciplinary process.

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.

In August 2007 the State Auditor's Office released a performance audit of the Department of Health's (Department) health profession's regulatory system. The report included several recommendations for legislative action. Among the report's recommendations were: to provide additional tools for obtaining records, documents, and other evidence; to give the Department the authority to access Washington State Patrol and Federal Bureau of Investigations criminal background information; and requiring that national background checks be conducted on all credential holders.

Post-Conviction Credentialing

Individuals who have been convicted of a felony may not be disqualified from government employment or the practice of a profession or business that requires a license solely because of the prior conviction. There is an exception for situations in which the conviction is directly related to the employment or the profession or business at issue and less than ten years have passed.

Criminal defendants who have completed their probation may have their record of convictions vacated and be released of any penalties and disabilities that arose from the conviction. In addition, the conviction is prohibited from being disseminated or disclosed by either the Washington State Patrol or local law enforcement agencies.

Summary of Bill:

Application Denial or Issuance with Conditions

Disciplining authorities may deny an application for a credential or issue a credential with conditions according to a process that is distinct from the standard disciplinary process for credential holders. The new process provides notice to an applicant of any denial or issuance with conditions and a right to an adjudicative proceeding. The circumstances for which a disciplining authority may deny an application for a health care provider credential or issue the credential with conditions are specified. These circumstances are where the applicant:

- has had his or her credential suspended by another jurisdiction;
- has committed an act of unprofessional conduct;
- has been convicted of, or is pending prosecution for, a crime involving moral turpitude, certain violent crimes, a crime relating to drugs, or a crime relating to financial exploitation;
- fails to prove that he or she meets the qualifications related to the profession; or
- cannot practice with reasonable skill and safety by reason of a mental or physical condition.

When determining the disposition of an application in which the applicant's mental or physical condition is at issue, the disciplining authority may require the applicant to submit to a mental, physical, or psychological examination at his or her expense. An applicant is deemed to have waived all objections to the admissibility of the testimony or reports of the health care provider who performs the examination.

Document Production

Credentialed health care providers are required to produce any documents, records, or other items within their possession or control within 21 calendar days of a request by a disciplining authority. If a health care provider fails to produce the materials or obtain an extension, the disciplining authority may issue a citation and assess a maximum fine of \$100 for each day that the materials are not produced. The total fine imposed may not exceed \$5,000. The citation must contain specific provisions, including notification to the health care provider that he or she may request a

hearing within 20 days of the issuance of the citation and that unpaid fines will be added to credential renewal fees.

Reinstatement Following Surrender or Revocation of a Credential

A disciplining authority may order permanent revocation of a license if it finds that the credential holder can never be rehabilitated or regain the ability to practice with reasonable skill and safety. A credentialed health care provider who has surrendered his or her credential or had it permanently revoked may not petition the disciplining authority for reinstatement.

Post-Conviction Credentialing

Records of criminal defendants which would otherwise be vacated and non-disclosable, are subject to distribution by the Washington State Patrol or local law enforcement agencies for the purposes of health profession disciplinary activities. Protections that prevent a person from being disqualified to practice a profession for no more than ten years when he or she has a prior felony conviction do not apply to health care provider credentials.

Background Checks

The Secretary may receive state and national criminal history records information including nonconviction data. The information may be used for making licensing determinations and investigating complaints that a credentialed health care provider has engaged in unprofessional conduct or is not able to practice safely due to a mental or physical condition. A new unit is established within the Department of detect, investigate, and prosecute any prohibited or unlawful acts under the Uniform Disciplinary Act.

The list of convictions that are cross-checked with the Washington State Patrol's database is expanded to include financial crimes, drug crimes, and all felonies.

Appropriation: None.

Fiscal Note: Available.

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