
HOUSE BILL 2139

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Harris, Morrell, and Cody

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1 AN ACT Relating to creation of a quality improvement program for
2 the licensees of the medical quality assurance commission; amending RCW
3 18.71.010; and adding new sections to chapter 18.71 RCW.

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

5 **Sec. 1.** RCW 18.71.010 and 1994 sp.s. c 9 s 302 are each amended to
6 read as follows:

7 The following terms used in this chapter shall have the meanings
8 set forth in this section unless the context clearly indicates
9 otherwise:

10 (1) "Commission" means the Washington state medical quality
11 assurance commission.

12 (2) "Physician" means a person licensed under this chapter.

13 (3) "Practitioner" means either a physician or physician assistant
14 licensed under chapter 18.71A RCW.

15 (4) "Quality improvement program" means a program that seeks to
16 educate and improve practitioner proficiency with regard to quality of
17 care, professional standards, ethical guidelines, and other practice
18 standard issues established by the commission pursuant to sections 2
19 through 8 of this act. The quality improvement program consists of

1 multiple nondisciplinary and nonreportable tools for use by the
2 commission at its discretion to resolve issues relating to medical
3 practice.

4 (5) "Secretary" means the secretary of health.

5 ((+3)) (6) "Resident physician" means an individual who has
6 graduated from a school of medicine which meets the requirements set
7 forth in RCW 18.71.055 and is serving a period of postgraduate clinical
8 medical training sponsored by a college or university in this state or
9 by a hospital accredited by this state. For purposes of this chapter,
10 the term shall include individuals designated as intern or medical
11 fellow.

12 ((+4)) (7) "Emergency medical care" or "emergency medical service"
13 has the same meaning as in chapter 18.73 RCW.

14 NEW SECTION. Sec. 2. The legislature considers physicians and
15 physician assistants as lifelong learners. The legislature further
16 recognizes the nature of this learning, practice correction, and
17 practice improvement typically occurs in an environment that is
18 conducive to learning but not without consequence. This learning or
19 guidance occurs at the direction of more learned peers. Historically,
20 this would occur through the actions of professional associations
21 intended to maintain and improve levels of competency through
22 instruction and guidance. It was through this process that senior
23 members of the association identified and addressed potentially harmful
24 practice deficits before these deficits developed into habits that
25 could harm the patient and by extension the profession. As not all
26 licensed practitioners in the state of Washington are members of
27 professional associations, but all medical practitioners are licensed
28 by the commission, it is appropriate that the commission fulfill the
29 role of providing practice correction to those practitioners in need.

30 NEW SECTION. Sec. 3. (1) The commission shall establish a quality
31 improvement program for the purposes of addressing deficits or concerns
32 in the practice of its licensees which are not unprofessional conduct
33 as set forth in RCW 18.130.180 and which do not pose a threat to the
34 safety of patients. The goal of the program is to improve the care of
35 practitioners in a nonpunitive, confidential environment that will
36 result in safer and higher quality care to the citizens of this state.

1 The quality improvement program is educational and nondisciplinary.
2 However, the commission may initiate one or more elements of the
3 quality improvement program with a licensee at any time, including
4 during the complaint process prior to the commission filing charges or
5 allegations against a respondent.

6 (2) Notwithstanding any other provision of law, a meeting of the
7 commission, a committee of the commission, or a review panel for the
8 purpose of discussing or adopting a nondisciplinary resolution
9 authorized by this section is not subject to the administrative
10 procedure act, chapter 34.05 RCW, and amendments thereto, and is not
11 subject to the open public meetings act as provided in chapter 42.30
12 RCW, and amendments thereto.

13 (3) A nondisciplinary resolution authorized by this section and all
14 entity records and all findings pursuant to sections 4 through 8 of
15 this act are not subject to disclosure pursuant to chapter 42.56 RCW,
16 and are not admissible in any civil, criminal, or administrative
17 action, except that such resolution is admissible in any disciplinary
18 proceeding by the commission.

19 (4) A nondisciplinary resolution authorized by this section is not
20 a disciplinary action or other order or adjudication. No failure to
21 adhere to the applicable standard of care or violation of the
22 Washington medical practice act may be implied by participation in the
23 quality improvement program or the adoption of a nondisciplinary
24 resolution.

25 (5) The commission may initiate one or more elements of the quality
26 improvement program with a licensee through the formal complaint
27 process, through the investigative process, or concerns shared
28 informally with the commission by peers, employers, or other concerned
29 parties associated with the licensee.

30 NEW SECTION. **Sec. 4.** (1) The establishment of the quality
31 improvement program authorizes the commission to perform any or all of
32 the following in the effort of executing the program:

33 (a) Entering into relationships supportive of the quality
34 improvement program with professionals who provide the following
35 services: Evaluation, education, or quality care improvement;

36 (b) Receiving and assessing reports from any source raising issues

1 with a physician's or physician assistant's care or conduct that may
2 need improvement;

3 (c) Intervening in cases of questionable behavior or care, or in
4 cases where there is reasonable cause to suspect there is a quality of
5 care or behavior issue but not unprofessional conduct as set forth in
6 RCW 18.130.180;

7 (d) Upon reasonable cause, referring physicians or physician
8 assistants for evaluation, education, or quality improvement;

9 (e) Monitoring the education and quality improvement of physicians
10 and physician assistants through meetings with the practitioner and
11 individuals assisting the practitioner pursuant to this section;

12 (f) Providing monitoring and continuing rehabilitative support of
13 physicians and physician assistants;

14 (g) Performing such other activities as agreed upon by the
15 commission and the practitioner; and

16 (h) Providing prevention, education, and continuing education,
17 where appropriate.

18 (2) The commission shall adopt rules necessary to implement this
19 section.

20 NEW SECTION. **Sec. 5.** (1) The commission may issue and establish
21 the terms of a professional development plan to resolve a concern,
22 complaint, or investigation of a complaint received by the commission
23 relating to practitioners licensed under chapter 18.71 or 18.71A RCW.

24 (2) A professional development plan may not contain a provision
25 that:

26 (a) Revokes, suspends, limits, or restricts a person's license or
27 other authorization to practice medicine; or

28 (b) Assesses an administrative penalty against a person.

29 (3) A professional development plan may not be imposed to resolve
30 a complaint:

31 (a) Concerning:

32 (i) A patient death;

33 (ii) The commission of a felony; or

34 (iii) A matter in which the physician engaged in inappropriate
35 sexual behavior or contact with a patient or became financially or
36 personally involved with a patient in an inappropriate manner; or

1 (b) In which the appropriate resolution may involve a restriction
2 on the manner in which a license holder practices medicine.

3 (4) The commission may only issue a professional development plan
4 to resolve a complaint against a license holder if the license holder
5 has not previously entered into a professional development plan within
6 the last five years.

7 (5) The license holder participating in a professional development
8 plan is responsible for the costs of administering this plan.

9 NEW SECTION. **Sec. 6.** (1) The commission may issue a letter of
10 guidance to resolve a concern, complaint, or investigation of a
11 complaint received by the commission relating to practitioners licensed
12 under chapter 18.71 or 18.71A RCW. The letter of guidance may detail
13 alleged areas of concern relating to medical practice of a licensee and
14 possible remedies the licensee may undertake to educate themselves on
15 the subject.

16 (2) The letter of guidance does not represent a disciplinary
17 finding of the commission and may not be used as evidence in any civil
18 or malpractice proceedings.

19 (3) The commission may use the letter of guidance in administrative
20 matters while carrying out its statutory duties.

21 NEW SECTION. **Sec. 7.** (1) The commission may compel an informal
22 interview to resolve a concern, complaint, or investigation of a
23 complaint received by the commission relating to practitioners licensed
24 under chapter 18.71 or 18.71A RCW.

25 (2) A commissioner and a commission medical consultant shall attend
26 the informal interview.

27 (3) The purpose of the informal interview is to conduct a candid
28 discussion between medical professionals regarding a specific area of
29 practice or situation of concern relating to practice.

30 (4) The licensee may choose to attend the informal interview with
31 legal representation.

32 (5) An informal interview does not preclude the commission from
33 proceeding with further investigation and disciplinary actions.

34 NEW SECTION. **Sec. 8.** (1) The commission may compel a quality

1 assessment to resolve a concern, complaint, or investigation of a
2 complaint received by the commission relating to practitioners licensed
3 under chapter 18.71 or 18.71A RCW.

4 (2) The quality assessment may be conducted at the direction of the
5 commission with a commission approved assessment entity.

6 (3) The quality assessment may be conducted in cooperation with the
7 employer of the licensee and any data said employer may choose to
8 share.

9 (4) The employer of the licensee may not use the quality assessment
10 or its results to initiate discipline either internally or with the
11 commission.

12 (5) The results of the quality assessment are confidential and not
13 subject to disclosure.

14 (6) Elements of the quality assessment may consist of, but are not
15 limited to, the following:

16 (a) 360 evaluation;

17 (b) Physical evaluation that includes tests for hearing, vision,
18 and dexterity;

19 (c) Mental evaluation that includes cognitive testing;

20 (d) Practice review or evaluation.

21 NEW SECTION. **Sec. 9.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 10.** Sections 2 through 8 of this act are each
26 added to chapter 18.71 RCW.

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