

---

SENATE BILL 6449

---

State of Washington

63rd Legislature

2014 Regular Session

By Senators Pedersen, Litzow, Keiser, Kohl-Welles, Cleveland, Ranker, Frockt, Hobbs, Hasegawa, Rolfes, Billig, Darneille, Chase, Kline, Hatfield, Nelson, Eide, McCoy, Conway, McAuliffe, Lias, Mullet, Fraser, and Tom

Read first time 01/27/14. Referred to Committee on Health Care .

1 AN ACT Relating to restricting the practice of sexual orientation  
2 change efforts; amending RCW 18.130.020 and 18.130.180; and creating a  
3 new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

6 (1) In 1993 the American academy of pediatrics published an article  
7 in its journal, *Pediatrics*, stating that therapy intended to change a  
8 person's sexual orientation is contraindicated because it can provoke  
9 guilt and anxiety in the person while having little or no potential for  
10 achieving changes in orientation;

11 (2) The American psychological association's task force on  
12 appropriate therapeutic responses to sexual orientation issued a report  
13 in 2009 concluding that sexual orientation change efforts can pose  
14 critical health risks to lesbian, gay, and bisexual people, including  
15 suicidality and many other dangers;

16 (3) For nearly forty years the major professional associations of  
17 mental health practitioners and researchers in the United States have  
18 recognized that being lesbian, gay, or bisexual is not a disease,  
19 disorder, illness, deficiency, or shortcoming;

1 (4) The Pan American health organization, a regional office of the  
2 world health organization, issued a statement in May 2012 indicating  
3 that conversion therapies constitute a breach of the ethical principles  
4 of health care and violate international and regional agreements on  
5 human rights. The statement further noted that such practices have no  
6 medical justification and represent a serious threat to the person's  
7 health and well-being;

8 (5) Many other organizations, including the American psychiatric  
9 association, the American medical association council on scientific  
10 affairs, the American school counselor association, the national  
11 association of social workers, and the American counseling association  
12 governing council, have issued statements or reports that oppose or  
13 criticize sexual orientation change efforts; and

14 (6) Washington has a compelling interest in protecting the physical  
15 and psychological well-being of minors, including lesbian, gay,  
16 bisexual, and transgender youth, and in protecting its minors against  
17 exposure to serious harms caused by sexual orientation change efforts.

18 **Sec. 2.** RCW 18.130.020 and 2008 c 134 s 2 are each amended to read  
19 as follows:

20 The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22 (1) "Board" means any of those boards specified in RCW 18.130.040.

23 (2) "Clinical expertise" means the proficiency or judgment that a  
24 license holder in a particular profession acquires through clinical  
25 experience or clinical practice and that is not possessed by a lay  
26 person.

27 (3) "Commission" means any of the commissions specified in RCW  
28 18.130.040.

29 (4) "Department" means the department of health.

30 (5) "Disciplinary action" means sanctions identified in RCW  
31 18.130.160.

32 (6) "Disciplining authority" means the agency, board, or commission  
33 having the authority to take disciplinary action against a holder of,  
34 or applicant for, a professional or business license upon a finding of  
35 a violation of this chapter or a chapter specified under RCW  
36 18.130.040.

1 (7) "Health agency" means city and county health departments and  
2 the department of health.

3 (8) "License," "licensing," and "licensure" shall be deemed  
4 equivalent to the terms "license," "licensing," "licensure,"  
5 "certificate," "certification," and "registration" as those terms are  
6 defined in RCW 18.120.020.

7 (9) "Practice review" means an investigative audit of records  
8 related to the complaint, without prior identification of specific  
9 patient or consumer names, or an assessment of the conditions,  
10 circumstances, and methods of the professional's practice related to  
11 the complaint, to determine whether unprofessional conduct may have  
12 been committed.

13 (10) "Secretary" means the secretary of health or the secretary's  
14 designee.

15 (11)(a) "Sexual orientation change efforts" means a regime that  
16 seeks to change an individual's sexual orientation. The term includes  
17 efforts to change behaviors or gender expressions, or to eliminate or  
18 reduce sexual or romantic attractions or feelings toward individuals of  
19 the same sex. The term includes, but is not limited to, practices  
20 commonly referred to as "reparative therapy" or "conversion therapy."

21 (b) The term does not include psychotherapies that (i) provide  
22 acceptance, support, and understanding of clients or the facilitation  
23 of clients' coping, social support, and identity exploration and  
24 development, including sexual orientation-neutral interventions to  
25 prevent or address unlawful conduct or unsafe sexual practices; and  
26 (ii) do not seek to change sexual orientation.

27 (12) "Standards of practice" means the care, skill, and learning  
28 associated with the practice of a profession.

29 ((+12+)) (13) "Unlicensed practice" means:

30 (a) Practicing a profession or operating a business identified in  
31 RCW 18.130.040 without holding a valid, unexpired, unrevoked, and  
32 unsuspended license to do so; or

33 (b) Representing to a consumer, through offerings, advertisements,  
34 or use of a professional title or designation, that the individual is  
35 qualified to practice a profession or operate a business identified in  
36 RCW 18.130.040, without holding a valid, unexpired, unrevoked, and  
37 unsuspended license to do so.

1       **Sec. 3.** RCW 18.130.180 and 2010 c 9 s 5 are each amended to read  
2 as follows:

3       The following conduct, acts, or conditions constitute  
4 unprofessional conduct for any license holder under the jurisdiction of  
5 this chapter:

6       (1) The commission of any act involving moral turpitude,  
7 dishonesty, or corruption relating to the practice of the person's  
8 profession, whether the act constitutes a crime or not. If the act  
9 constitutes a crime, conviction in a criminal proceeding is not a  
10 condition precedent to disciplinary action. Upon such a conviction,  
11 however, the judgment and sentence is conclusive evidence at the  
12 ensuing disciplinary hearing of the guilt of the license holder of the  
13 crime described in the indictment or information, and of the person's  
14 violation of the statute on which it is based. For the purposes of  
15 this section, conviction includes all instances in which a plea of  
16 guilty or nolo contendere is the basis for the conviction and all  
17 proceedings in which the sentence has been deferred or suspended.  
18 Nothing in this section abrogates rights guaranteed under chapter 9.96A  
19 RCW;

20       (2) Misrepresentation or concealment of a material fact in  
21 obtaining a license or in reinstatement thereof;

22       (3) All advertising which is false, fraudulent, or misleading;

23       (4) Incompetence, negligence, or malpractice which results in  
24 injury to a patient or which creates an unreasonable risk that a  
25 patient may be harmed. The use of a nontraditional treatment by itself  
26 shall not constitute unprofessional conduct, provided that it does not  
27 result in injury to a patient or create an unreasonable risk that a  
28 patient may be harmed;

29       (5) Suspension, revocation, or restriction of the individual's  
30 license to practice any health care profession by competent authority  
31 in any state, federal, or foreign jurisdiction, a certified copy of the  
32 order, stipulation, or agreement being conclusive evidence of the  
33 revocation, suspension, or restriction;

34       (6) Except when authorized by RCW 18.130.345, the possession, use,  
35 prescription for use, or distribution of controlled substances or  
36 legend drugs in any way other than for legitimate or therapeutic  
37 purposes, diversion of controlled substances or legend drugs, the

1 violation of any drug law, or prescribing controlled substances for  
2 oneself;

3 (7) Violation of any state or federal statute or administrative  
4 rule regulating the profession in question, including any statute or  
5 rule defining or establishing standards of patient care or professional  
6 conduct or practice;

7 (8) Failure to cooperate with the disciplining authority by:

8 (a) Not furnishing any papers, documents, records, or other items;

9 (b) Not furnishing in writing a full and complete explanation  
10 covering the matter contained in the complaint filed with the  
11 disciplining authority;

12 (c) Not responding to subpoenas issued by the disciplining  
13 authority, whether or not the recipient of the subpoena is the accused  
14 in the proceeding; or

15 (d) Not providing reasonable and timely access for authorized  
16 representatives of the disciplining authority seeking to perform  
17 practice reviews at facilities utilized by the license holder;

18 (9) Failure to comply with an order issued by the disciplining  
19 authority or a stipulation for informal disposition entered into with  
20 the disciplining authority;

21 (10) Aiding or abetting an unlicensed person to practice when a  
22 license is required;

23 (11) Violations of rules established by any health agency;

24 (12) Practice beyond the scope of practice as defined by law or  
25 rule;

26 (13) Misrepresentation or fraud in any aspect of the conduct of the  
27 business or profession;

28 (14) Failure to adequately supervise auxiliary staff to the extent  
29 that the consumer's health or safety is at risk;

30 (15) Engaging in a profession involving contact with the public  
31 while suffering from a contagious or infectious disease involving  
32 serious risk to public health;

33 (16) Promotion for personal gain of any unnecessary or  
34 inefficacious drug, device, treatment, procedure, or service;

35 (17) Conviction of any gross misdemeanor or felony relating to the  
36 practice of the person's profession. For the purposes of this  
37 subsection, conviction includes all instances in which a plea of guilty

1 or nolo contendere is the basis for conviction and all proceedings in  
2 which the sentence has been deferred or suspended. Nothing in this  
3 section abrogates rights guaranteed under chapter 9.96A RCW;

4 (18) The procuring, or aiding or abetting in procuring, a criminal  
5 abortion;

6 (19) The offering, undertaking, or agreeing to cure or treat  
7 disease by a secret method, procedure, treatment, or medicine, or the  
8 treating, operating, or prescribing for any health condition by a  
9 method, means, or procedure which the licensee refuses to divulge upon  
10 demand of the disciplining authority;

11 (20) The willful betrayal of a practitioner-patient privilege as  
12 recognized by law;

13 (21) Violation of chapter 19.68 RCW;

14 (22) Interference with an investigation or disciplinary proceeding  
15 by willful misrepresentation of facts before the disciplining authority  
16 or its authorized representative, or by the use of threats or  
17 harassment against any patient or witness to prevent them from  
18 providing evidence in a disciplinary proceeding or any other legal  
19 action, or by the use of financial inducements to any patient or  
20 witness to prevent or attempt to prevent him or her from providing  
21 evidence in a disciplinary proceeding;

22 (23) Current misuse of:

23 (a) Alcohol;

24 (b) Controlled substances; or

25 (c) Legend drugs;

26 (24) Abuse of a client or patient or sexual contact with a client  
27 or patient;

28 (25) Acceptance of more than a nominal gratuity, hospitality, or  
29 subsidy offered by a representative or vendor of medical or health-  
30 related products or services intended for patients, in contemplation of  
31 a sale or for use in research publishable in professional journals,  
32 where a conflict of interest is presented, as defined by rules of the  
33 disciplining authority, in consultation with the department, based on  
34 recognized professional ethical standards;

35 (26) Performing sexual orientation change efforts on a patient  
36 under age eighteen.

--- END ---