

HOUSE BILL REPORT

SSB 5870

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to protecting youth from aversive mental health therapies.

Brief Description: Protecting youth from aversive mental health therapies.

Sponsors: Senate Committee on Health Care (originally sponsored by Senators Liias, Litzow, Pedersen, Fain, Ranker, Rivers, Frockt, Cleveland, Mullet, Kohl-Welles, Keiser, Chase, Billig, Hasegawa, Darneille and Habib).

Brief History:

Committee Activity:

Health Care & Wellness: 3/24/15, 3/26/15 [DPA].

**Brief Summary of Substitute Bill
(As Amended by Committee)**

- Establishes the performance of prohibited aversive mental health therapy as unprofessional conduct under the Uniform Disciplinary Act.
- Defines "prohibited aversive mental health therapy" to mean performing aversive mental health therapy on a patient under the age of 18.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 10 members: Representatives Cody, Chair; Riccelli, Vice Chair; Caldier, Clibborn, Jinkins, Johnson, Moeller, Robinson, Tharinger and Van De Wege.

Minority Report: Do not pass. Signed by 2 members: Representatives Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member.

Minority Report: Without recommendation. Signed by 2 members: Representatives Rodne and Short.

Staff: Alexa Silver (786-7190).

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.

Background:

Credentialed health care providers are subject to professional discipline under the Uniform Disciplinary Act (UDA). Depending on the profession, the disciplining authority may be the Secretary of Health or one of 16 different boards and commissions.

Under the UDA, the disciplining authority may take action against a provider for unprofessional conduct. Unprofessional conduct is defined to include a variety of acts, such as practice beyond the scope of practice, violation of a statute or rule regulating the profession (including a statute or rule defining or establishing standards of care), conviction of a felony or gross misdemeanor related to the person's profession, and abuse of a client or patient.

The disciplining authority is required to investigate whether there has been unprofessional conduct if a complaint merits investigation or if the disciplining authority has reason to believe that a license holder or applicant may have engaged in unprofessional conduct. Sanctions available to the disciplining authority include revocation or suspension of the license, restriction of the practice, compelled completion of a program or treatment, monitoring, reprimand, probationary conditions, fines, corrective action, and a surrender of the license.

Summary of Amended Bill:

It is unprofessional conduct under the Uniform Disciplinary Act for a licensed health care provider to perform prohibited aversive mental health therapy. "Prohibited aversive mental health therapy" means performing aversive mental health therapy on a patient under the age of 18.

"Aversive mental health therapy" includes both aversion therapy and conversion therapy:

- "Aversion therapy" means a practice, treatment, or therapy involving electrical shock, extreme temperatures, prolonged isolation, chemically induced nausea or vomiting, criminal assault, or other procedures intended to cause pain, discomfort, or unpleasant sensations to the client or patient. It does not include practices, treatments, or therapies that are within the standards of practice for a license holder, as provided by Department of Health rules.
- "Conversion therapy" means any practices or treatments that seek to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. It does not include counseling that provides assistance to a person undergoing gender transition, and counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as the counseling does not seek to change sexual orientation or gender identity.

Amended Bill Compared to Substitute Bill:

The substitute bill established the performance of prohibited aversion therapy on a patient under the age of 18 as unprofessional conduct and defined "prohibited aversion therapy" the same as the amended bill defines "aversion therapy." The conduct under the amended bill that constitutes unprofessional conduct also includes the performance of conversion therapy.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) This bill addresses an urgent and pressing problem in this state regarding the use of dangerous, outdated, and discredited therapies, especially sexual orientation change efforts. It is important that when medical professionals identify treatments with negative effects on patients that the Legislature prevent those from being used and let parents know that they should not expose their children to those therapies.

A similar bill passed last year with almost unanimous support, but did not pass the Senate before the end of session. The idea was developed to look at not just sexual orientation change efforts, but a broad set of aversive mental health therapies that are used on children. The Senate narrowed the bill to address the most dangerous forms of these therapies. Originally, there were concerns with distinguishing between aversive and talk therapy. The Legislature should not insert itself into a conversation between a client and a therapist. The previous version of the bill would have banned communications about a controversial issue and would have prevented clients from seeking goals that are too sensitive to explore outside of therapy. The current bill clarifies that physical aversion therapy is universally condemned, but does not regulate speech. For therapy to be effective, the relationship must be directed by the client. A person who comes to therapy should be able to work on anything he or she wants. The therapist's job is to help educate the person and explore those issues. There has never been a complaint filed with the Department of Health claiming that a therapist performed this type of therapy.

(With concerns) This version of the bill falls short of addressing the issue and does not adequately address the protections that children need. Sexual orientation change efforts are a regime of activities, including physical and talk therapies, with a focus on changing sexual orientation. The prohibition on sexual orientation change efforts was brought forward by licensed mental health provider professional organizations. They believe all aspects of aversion therapy are unprofessional conduct. The effects of conversion therapy, both physical and talk therapy, are devastating. Children whose gender identities were attacked are more likely to use drugs, suffer from depression, and attempt suicide. Therapy that goes along with sexual orientation change efforts has also been recognized as ineffective. The

Legislature should prioritize protecting all children and saving their lives. Passing a stronger bill would be a victory for the people whose lives have been ruined by this therapy.

(Opposed) None.

(Other) A health impact review was performed for the original bill, which included sexual orientation change efforts. That provision has been removed, but the components of the review still apply. The original bill had potential to mitigate harms and improve health outcomes, particularly among lesbian, gay, bisexual, transgender, queer, and questioning patients, a population that is disproportionately impacted by poor health outcomes. Physical aversion therapies, such as electrical shock, are associated with negative health outcomes. Sexual orientation change efforts that do not use physical aversion techniques are also associated with negative health outcomes, such as self-reproach, depression, self-harm, and suicidality. There is no validated evidence that these therapies are associated with changes in sexual orientation. The current version of the bill provides fewer protections for youth than the original version, because it only addresses efforts that use physical techniques, not efforts that use psychotherapy.

Persons Testifying: (In support) Senator Liias, prime sponsor; Brian Tingley; and Joseph Backholm, Family Policy Institute of Washington.

(With concerns) Carey Morris, Equal Rights Washington; Monisha Harrell, Equal Rights Washington; and Bob Cooper, National Association of Social Workers - Washington Chapter.

(Other) Sierra Rotakhina, Washington State Board of Health.

Persons Signed In To Testify But Not Testifying: None.