

SENATE BILL REPORT

HB 1339

As Reported by Senate Committee On:
Health Care, March 31, 2015

Title: An act relating to allowing the secretary of health to intercede and stay any decision of a disciplining authority that expands scope of practice.

Brief Description: Allowing the secretary of health to intercede and stay any decision of a disciplining authority that expands scope of practice.

Sponsors: Representatives Cody, Schmick, Riccelli, Jinkins, Harris, Tharinger, Moeller and Wylie.

Brief History: Passed House: 2/09/15, 88-8.

Committee Activity: Health Care: 3/16/15, 3/31/15 [DPA].

SENATE COMMITTEE ON HEALTH CARE

Majority Report: Do pass as amended.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Frockt, Ranking Minority Member; Angel, Bailey, Brown, Cleveland, Conway, Jayapal, Keiser and Parlette.

Staff: Kathleen Buchli (786-7488)

Background: The scope of practice of each health profession is established in statute. Individual disciplining authorities may engage in activities that interpret or implement a health profession's statutory scope of practice, including rulemaking, policy or interpretive statements, declarative orders, practice guidelines, and formal disciplinary action.

Summary of Bill (Recommended Amendments): The Secretary of Health (Secretary) may, on the Secretary's own initiative, or at the behest of one of the chairs of the House of Representatives and Senate health care committees, make a determination as to whether a disciplining authority has impermissibly expanded the scope of practice of a health profession. The Secretary may make this determination in connection with rulemaking, interpretive statements, policy statements, declarative orders, practice guidelines, decisions in formal disciplinary actions, and other declarations.

When determining whether a disciplining authority has expanded a profession's scope of practice, the Secretary must consider the following:

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- the plain language in the statute;
- the education and training required to perform the procedure or task;
- the education and training commonly received by members of the profession;
- the extent to which the expansion encroaches on the scope of practice of another health profession;
- the Legislature's intent when establishing the health profession's scope of practice; and
- any other information deemed relevant by the Secretary.

If the Secretary determines that a disciplining authority has expanded the scope of practice of a health profession, the Secretary must attempt to collaboratively resolve the issue with the disciplining authority. If the Secretary fails to resolve the issue collaboratively, the Secretary may issue a directive staying the action that resulted in the expansion. The stay is effective until 90 days after the last day of the next full legislative session, written order by a court of competent jurisdiction, or rescission by the Secretary, whichever occurs first.

If the Secretary issues a stay, the Secretary must provide notice to the health care committees of the Legislature and include a brief summary of the basis for determination. The Secretary may also include recommendations for addressing the scope of practice of the affected professions.

The Department of Health must review the sunrise review statutes and address specific criteria related to investigating scope of practice expansion issues. Results of this review must be reported to the health care committees of the Legislature by December 1, 2016.

EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Amendments): If the Secretary issues a stay, the Secretary must provide notice to the health care committees of the Legislature and include a brief summary of the basis for determination. The Secretary may also include recommendations for addressing the scope of practice of the affected professions.

The Department of Health must review the sunrise review statutes and address specific criteria related to investigating scope of practice expansion issues. Results of this review must be reported to the health care committees of the Legislature by December 1, 2016.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on House Bill: PRO: We have heard concerns about boards and commissions expanding scope of practice of their licensees through rulemaking or other decisions. This bill strikes a good balance and allows the Legislature to keep an eye open to intervene in board and commission decisions when appropriate. We understand that health care professionals want to practice to the full extent of their training and that this may

be beyond the scope of practice provided in law. This establishes the process to address professionals who practice beyond their school and allows the Department of Health to address its regulatory role relating to scope issues. This is a process that will be used sparingly and will promote public health and safety. It ensures that only the Legislature may expand scope of practice. It puts a system of checks and balances into the law and addresses the dry needling issue that is currently a point of contention between the East Asian medicine practitioners and the physical therapists. Scope expansion should be addressed through the sunrise review process; unelected professional boards should not be establishing scope of practice.

CON: The Legislature allows boards and commissions to interpret scope of practice for the health care professionals they regulate. As members of the profession, they are able to determine the best level of care for their members. Each board also has an assistant attorney general who advises them on scope of practice decisions. These boards and commissions also include a public member who serves as an additional check on the board or commission. The Secretary is not the best person to determine scope of practice for the profession because the Secretary will not know about each health care profession's training and be able to answer questions about what they are able to do.

Persons Testifying: PRO: Representative Cody, prime sponsor; Leslie Emerick, Curtis Eschels, WA East Asian Medicine Assn.; Martin Mueller, Dept. of Health.

CON: Melissa Johnson, WA Assn. of Nurse Anesthetists.

Persons Signed in to Testify But Not Testifying: No one.