

SHB 1300 - H AMD 895

By Representative Orwall

ADOPTED 02/09/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds it unconscionable
4 that health care providers or others may misrepresent the source of
5 the human reproductive material provided to assisted reproduction
6 patients. In such cases, false information leaves the children
7 conceived through assisted reproduction without accurate information
8 about their identity, family medical history, and true genetic
9 parentage.

10 **Sec. 2.** RCW 9A.36.031 and 2013 c 256 s 1 are each amended to
11 read as follows:

12 (1) A person is guilty of assault in the third degree if he or
13 she, under circumstances not amounting to assault in the first or
14 second degree:

15 (a) With intent to prevent or resist the execution of any lawful
16 process or mandate of any court officer or the lawful apprehension or
17 detention of himself, herself, or another person, assaults another;
18 or

19 (b) Assaults a person employed as a transit operator or driver,
20 the immediate supervisor of a transit operator or driver, a mechanic,
21 or a security officer, by a public or private transit company or a
22 contracted transit service provider, while that person is performing
23 his or her official duties at the time of the assault; or

24 (c) Assaults a school bus driver, the immediate supervisor of a
25 driver, a mechanic, or a security officer, employed by a school
26 district transportation service or a private company under contract
27 for transportation services with a school district, while the person
28 is performing his or her official duties at the time of the assault;
29 or

1 (d) With criminal negligence, causes bodily harm to another
2 person by means of a weapon or other instrument or thing likely to
3 produce bodily harm; or

4 (e) Assaults a firefighter or other employee of a fire
5 department, county fire marshal's office, county fire prevention
6 bureau, or fire protection district who was performing his or her
7 official duties at the time of the assault; or

8 (f) With criminal negligence, causes bodily harm accompanied by
9 substantial pain that extends for a period sufficient to cause
10 considerable suffering; or

11 (g) Assaults a law enforcement officer or other employee of a law
12 enforcement agency who was performing his or her official duties at
13 the time of the assault; or

14 (h) Assaults a peace officer with a projectile stun gun; or

15 (i) Assaults a nurse, physician, or health care provider who was
16 performing his or her nursing or health care duties at the time of
17 the assault. For purposes of this subsection: "Nurse" means a person
18 licensed under chapter 18.79 RCW; "physician" means a person licensed
19 under chapter 18.57 or 18.71 RCW; and "health care provider" means a
20 person certified under chapter 18.71 or 18.73 RCW who performs
21 emergency medical services or a person regulated under Title 18 RCW
22 and employed by, or contracting with, a hospital licensed under
23 chapter 70.41 RCW; or

24 (j) Assaults a judicial officer, court-related employee, county
25 clerk, or county clerk's employee, while that person is performing
26 his or her official duties at the time of the assault or as a result
27 of that person's employment within the judicial system. For purposes
28 of this subsection, "court-related employee" includes bailiffs, court
29 reporters, judicial assistants, court managers, court managers'
30 employees, and any other employee, regardless of title, who is
31 engaged in equivalent functions; or

32 (k) Assaults a person located in a courtroom, jury room, judge's
33 chamber, or any waiting area or corridor immediately adjacent to a
34 courtroom, jury room, or judge's chamber. This section shall apply
35 only: (i) During the times when a courtroom, jury room, or judge's
36 chamber is being used for judicial purposes during court proceedings;
37 and (ii) if signage was posted in compliance with RCW 2.28.200 at the
38 time of the assault; or

39 (l) Implants his or her gametes or reproductive material into a
40 patient without the patient's written consent. For the purposes of

1 this subsection, "gamete" means sperm, egg, or any part of a sperm or
2 egg, and "reproductive material" means a human gamete or a human
3 organism at any stage of development from fertilized ovum to embryo.

4 (2) Assault in the third degree is a class C felony.

5 **Sec. 3.** RCW 18.130.180 and 2023 c 192 s 2 and 2023 c 122 s 4 are
6 each reenacted and amended to read as follows:

7 Except as provided in RCW 18.130.450, the following conduct,
8 acts, or conditions constitute unprofessional conduct for any license
9 holder under the jurisdiction of this chapter:

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

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

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

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

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

38 (6) The possession, use, prescription for use, or distribution of
39 controlled substances or legend drugs in any way other than for

1 legitimate or therapeutic purposes, diversion of controlled
2 substances or legend drugs, the violation of any drug law, or
3 prescribing controlled substances for oneself;

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

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

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

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

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

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

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

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

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

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

28 (13) Misrepresentation or fraud in any aspect of the conduct of
29 the business or profession;

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

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

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

37 (17) Conviction of any gross misdemeanor or felony relating to
38 the practice of the person's profession. For the purposes of this
39 subsection, conviction includes all instances in which a plea of
40 guilty or nolo contendere is the basis for conviction and all

1 proceedings in which the sentence has been deferred or suspended.
2 Nothing in this section abrogates rights guaranteed under chapter
3 9.96A RCW;

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

9 (19) The willful betrayal of a practitioner-patient privilege as
10 recognized by law;

11 (20) Violation of chapter 19.68 RCW or a pattern of violations of
12 RCW 41.05.700(8), 48.43.735(8), 48.49.020, 48.49.030, 71.24.335(8),
13 or 74.09.325(8);

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

22 (22) Current misuse of:

23 (a) Alcohol;

24 (b) Controlled substances; or

25 (c) Legend drugs;

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

28 (24) 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
31 of a sale or for use in research publishable in professional
32 journals, where a conflict of interest is presented, as defined by
33 rules of the disciplining authority, in consultation with the
34 department, based on recognized professional ethical standards;

35 (25) Violation of RCW 18.130.420;

36 (26) Performing conversion therapy on a patient under age
37 eighteen;

38 (27) Violation of RCW 18.130.430;

39 (28) Violation of RCW 18.130.460; or

1 (29) Implanting the license holder's own gametes or reproductive
2 material into a patient without the patient's written consent.

3 NEW SECTION. Sec. 4. (1) By August 1, 2024, and within existing
4 resources, the department of health must convene a work group of
5 stakeholders to evaluate the issue of fraud in assisted reproduction
6 in Washington and make recommendations to the governor and the
7 appropriate committees of the legislature for addressing fraud in
8 assisted reproduction.

9 (2) The work group must, at minimum, consist of stakeholders
10 representing each of the following:

- 11 (a) The Washington association of prosecuting attorneys;
- 12 (b) Victims of crimes related to fraud in assisted reproduction;
- 13 (c) A statewide association representing physicians;
- 14 (d) A national organization focused on the advancement of the
15 science and practice of reproductive medicine;
- 16 (e) Health care providers;
- 17 (f) Fertility clinics;
- 18 (g) Gamete banks; and
- 19 (h) Any other entities that the department of health determines
20 should participate in the work group.

21 (3) After being convened, the work group must continue to meet at
22 least once every two months to evaluate and make recommendations
23 related to the following subjects:

- 24 (a) Conduct that may constitute fraud in assisted reproduction;
- 25 (b) Whether particular forms of fraud in assisted reproduction
26 should be subject to increased regulation and enforcement, including
27 consideration of whether to:
 - 28 (i) Expand related professional disciplinary actions;
 - 29 (ii) Expand related criminal penalties;
 - 30 (iii) Provide additional civil causes of action or remedies to
31 donors and patients who are harmed;
 - 32 (iv) Extend related statutes of limitations; and
 - 33 (v) Make any other relevant changes to support effective
34 regulation and enforcement;
- 35 (c) Whether certain information about the identity and background
36 of donors should be protected or shared, and with whom that
37 information should be protected from or shared with;
- 38 (d) Whether to allow or prohibit anonymous donations;

- 1 (e) Whether there should be any limits on how frequently the same
2 person may provide donations of reproductive material;
- 3 (f) Current regulations on assisted reproduction services offered
4 by health care providers, fertility clinics, and gamete banks in
5 Washington, including existing enforcement mechanisms;
- 6 (g) Approaches other jurisdictions have undertaken to address
7 fraud in assisted reproduction, including any legislative efforts to
8 address fraud in assisted reproduction in those jurisdictions;
- 9 (h) Resources for victims of fraud in assisted reproduction; and
10 (i) Any other relevant factors or considerations.
- 11 (4) The department of health must issue a final report containing
12 the work group's findings and recommendations to the governor and the
13 appropriate committees of the legislature by October 1, 2025.
- 14 (5) This section expires January 1, 2026."

15 Correct the title.

EFFECT: (1) Establishes that it is unprofessional conduct under the uniform disciplinary act for a licensee to implant his or her gametes or reproductive material into a patient without the patient's written consent, rather than for a licensee to specifically commit assault in the third degree involving the same conduct.

(2) Expands the work group on fraud in assisted reproduction to include stakeholders from a statewide association representing physicians, and a national organization focused on the advancement of the science and practice of reproductive medicine.

(3) Provides that the department of health must convene the work group by August 1, 2024, rather than August 1, 2023; the department of health must issue the work group's final report to the governor and the legislature by October 1, 2025, rather than October 1, 2024; and the work group expires on January 1, 2026, rather than January 1, 2025.

(4) Updates the underlying statutory language related to unprofessional conduct by licensed health care professionals to reflect changes enacted during the 2023 legislative session.

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