

# HOUSE BILL REPORT

## SHB 1255

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### As Passed House:

March 6, 2023

**Title:** An act relating to reducing stigma and incentivizing health care professionals licensed by the Washington state nursing care quality assurance commission to participate in a substance use disorder monitoring and treatment program.

**Brief Description:** Reducing stigma and incentivizing health care professionals to participate in a substance use disorder monitoring and treatment program.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Simmons, Harris, Peterson, Reed, Riccelli, Macri, Bateman and Doglio).

### Brief History:

#### Committee Activity:

Health Care & Wellness: 1/24/23, 2/3/23 [DPS].

#### Floor Activity:

Passed House: 3/6/23, 60-35.

### Brief Summary of Substitute Bill

- Prohibits the Department of Health and the Nursing Care Quality Assurance Commission (Nursing Commission) from posting information on a public website regarding an enforcement action taken against an individual licensed by the Nursing Commission if the individual has successfully completed the terms of an agreement or order requiring the individual to contact and/or participate in an approved substance use disorder monitoring program.
- Requires the Nursing Commission to establish a stipend program to defray the costs associated with participating in the Nursing Commission's approved substance use disorder monitoring program.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Bronoske, Davis, Harris, Macri, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

**Minority Report:** Without recommendation. Signed by 4 members: Representatives Hutchins, Assistant Ranking Minority Member; Barnard, Graham and Maycumber.

**Staff:** Emily Poole (786-7106).

### **Background:**

#### The Uniform Disciplinary Act.

The Uniform Disciplinary Act (UDA) provides a legal and policy framework for the regulation and oversight of health care providers by the relevant disciplining authorities for each health care profession. Under the UDA, upon a finding that a license holder has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the disciplining authority must prepare and serve findings of fact and an order, which must include sanctions adopted in accordance with certain requirements.

Alternatively, prior to a disciplining authority serving a statement of charges, the disciplining authority and license holder may agree to disposition of the charges by means of a stipulation to informal resolution of the allegations. Certain sanctions may be imposed as part of the stipulation, but a stipulation is not considered formal disciplinary action.

#### Washington Health Professional Services.

The Nursing Care Quality Assurance Commission (Nursing Commission) is the disciplining authority for the nursing professions, including registered nurses, advanced registered nurse practitioners, and licensed practical nurses. If the Nursing Commission determines that alleged unprofessional conduct may be the result of an applicable impairing or potentially impairing health condition, the Nursing Commission may refer the license holder to a voluntary substance use disorder monitoring program approved by the Nursing Commission.

Washington Health Professional Services (WHPS) is the Nursing Commission's approved substance use disorder monitoring program. The Nursing Commission may refer license holders to WHPS as either an alternative to or in connection with disciplinary actions. Referral to WHPS may only be done with the consent of the license holder, and it may include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the Nursing Commission may take appropriate disciplinary action, including suspension of the

license, unless or until the Nursing Commission, in consultation with the director of the WHPS, determines the license holder is able to practice safely.

The cost of evaluation and treatment is the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources.

#### Public Records.

Disciplining authorities are required to report statements of charges and final orders associated with enforcement actions to the public, and the documents are considered public records under the Public Records Act. If a disciplining authority and license holder agree to a stipulation for informal resolution of the allegations, the complaint is deemed disposed of and is subject to public disclosure on the same basis and to the same extent as other records of the disciplining authority.

The Department of Health and the Nursing Commission make certain records concerning licensure and discipline available to the public through certain state and national databases.

The treatment and pre-treatment records of a license holder that participates in the WHPS program are confidential and exempt from public disclosure.

#### **Summary of Substitute Bill:**

##### Posting of Information Related to Enforcement Actions.

The Department of Health and the Nursing Commission are prohibited from posting information regarding an enforcement action taken against a registered nurse, advanced registered nurse practitioner, or licensed practical nurse on any public website, including any supporting documents or indication that the enforcement action was taken, when the following conditions are met:

- the license holder, in connection with the enforcement action, has been required by an order or agreement with the Nursing Commission to contact WHPS, and if recommended by the program, to contract with and participate in WHPS;
- the Nursing Commission has found that the license holder has substantially complied with the terms of the order or agreement; and
- if the website is a third-party website, the Department of Health or Nursing Commission has the ability to prevent information regarding the enforcement action from being posted on the public website.

##### Stipend Program.

By July 1, 2024, the Nursing Commission is required to establish a stipend program to defray the out-of-pocket expenses incurred in connection with a license holder's participation in WHPS.

To be eligible for the stipend program, an individual must:

- hold an active, inactive, or suspended license as a registered nurse, advanced registered nurse practitioner, or licensed practical nurse;
- submit an application;
- be actively participating in WHPS or have completed WHPS within six months of submission of an application for the stipend program; and
- have a demonstrated need for financial assistance with the expenses incurred in connection with participation in WHPS.

A person is not eligible for the stipend program if they have previously applied for and participated in the stipend program.

The Nursing Commission may defray up to 80 percent of each out-of-pocket expense deemed eligible for defrayment. Expenses eligible for reimbursement include the costs of substance use evaluation, treatment, and other ancillary services, including drug testing, participation in professional peer support groups, and any other expenses deemed appropriate by the Nursing Commission.

The Nursing Commission must provide certain information on its website regarding the stipend program, including the number of participants, the amount of expenses defrayed under the stipend program, and the amount of funds available.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The WHPS program is an important, evidence-based resource for nurses with substance use disorder. Several hundreds of nurses have successfully completed the WHPS program and lived exemplary careers and lives. The terms of WHPS contracts are intended to protect the public. The WHPS program is not easy, and it entails significant costs. Participants have to undergo random drug testing and participate in peer groups, among other steps, which require financial expenditures. The WHPS participants may spend thousands of dollars each year to participate in the program, and many participate for multiple years. Participants often drop out of the WHPS program because they cannot afford it. There has been a recent decrease in WHPS participants. If every nurse with substance use disorder participated in the WHPS program, there would likely be many more participants. There is a workforce shortage, and it is important to enable nurses to stay in the workforce. This bill will help reduce the stigma around substance use disorder by removing information about WHPS participants from the Department of Health's website. This bill will make it easier for nurses with substance use disorder to find employment.

Substance use disorder should be treated as a health condition.

(Opposed) None.

(Other) This bill treats all WHPS participants the same, regardless of the type of unprofessional conduct they may have committed. It is not clear that all harms should be treated the same. This bill is focused on nurses and the WHPS program, but regulating entities should treat health care professionals similarly across professions.

**Persons Testifying:** (In support) Representative Tarra Simmons, prime sponsor; Justin Vail; Grant Hulteen, Dawn Morrell, and Alicia Payne, Nursing Care Quality Assurance Commission; and Jean Sullivan.

(Other) Katie Kolan, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying:** None.