

HOUSE BILL REPORT

ESHB 1340

As Passed House:
February 28, 2023

Title: An act relating to actions by health professions disciplining authorities against license applicants and license holders for providing reproductive health care services or gender affirming treatment.

Brief Description: Concerning actions by health professions disciplining authorities against license applicants and license holders.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Riccelli, Thai, Berry, Ormsby, Chopp, Macri, Bergquist, Bateman, Simmons, Stonier, Berg, Duerr, Wylie, Senn, Taylor, Fitzgibbon, Cortes, Goodman, Reed, Lekanoff, Alvarado, Ramel, Kloba, Tharinger and Pollet).

Brief History:

Committee Activity:

Health Care & Wellness: 1/24/23, 1/27/23 [DPS].

Floor Activity:

Passed House: 2/28/23, 57-40.

Brief Summary of Engrossed Substitute Bill

- Establishes that participation in reproductive health care services or gender affirming treatment by health care providers does not constitute "unprofessional conduct" under the Uniform Disciplinary Act (UDA) and may not serve as the basis for professional discipline, with some exceptions.
- Establishes that a conviction or disciplinary action based on a health care provider's violation of another state's laws prohibiting participation in reproductive health care services or gender affirming treatment does not constitute "unprofessional conduct" under the UDA and may not serve as the basis for professional discipline, with some exceptions.

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.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Hutchins, Assistant Ranking Minority Member; Bronoske, Davis, Harris, Macri, Orwall, Simmons, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 4 members: Representatives Schmick, Ranking Minority Member; Barnard, Graham and Mosbrucker.

Minority Report: Without recommendation. Signed by 1 member: Representative Maycumber.

Staff: Emily Poole (786-7106).

Background:

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, disciplining authorities have the authority to investigate all complaints or reports of unprofessional conduct, as defined under the UDA. Upon a finding, after a hearing, that a license holder has committed unprofessional conduct, the disciplining authority is required to issue an order including appropriate sanctions.

Disciplining authorities may deny an application for licensure or grant a licensure with conditions under certain circumstances, including if the applicant has had their license to practice any health care profession suspended, revoked, or restricted in any jurisdiction or if the applicant has committed an act defined as unprofessional conduct under the UDA.

Among other acts and conditions, unprofessional conduct is defined under the UDA to include:

- suspension, revocation, or restriction of an individual's license to practice any health care profession in any jurisdiction;
- violation of any state or federal statute or administrative rule regulating the profession in question;
- violations of rules established by any health agency;
- practice beyond the scope of practice as defined by law or rule;
- the conviction of any gross misdemeanor or felony relating to the practice of the person's profession; and
- procuring, or aiding or abetting in procuring, a criminal abortion.

Summary of Engrossed Substitute Bill:

The UDA is amended such that the following do not constitute unprofessional conduct and, with some exceptions, may not serve as the basis for professional discipline or denial of licensure in Washington:

- the provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender affirming treatment, by a license holder, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington; and
- a conviction or disciplinary action based on the license holder's violation of another state's laws prohibiting the provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender affirming treatment, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington.

The definition of "unprofessional conduct" under the UDA is amended to exclude procuring, or aiding or abetting in procuring, a criminal abortion.

Appropriation: None.

Fiscal Note: Not requested.

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) Providers in Washington can currently provide the full spectrum of care, and providers should be able to provide reproductive health services without their license being in peril. Multiple states have banned abortion and gender affirming care, and it is important to protect access to health care. Providers are concerned about anti-choice laws in other states and how those laws may affect providers in Washington. Threats to professional licenses are a concern for many providers who want to be able to focus on providing safe care. There is a real possibility of providers being punished for providing legal abortion care. It is important to protect providers who move to Washington to practice and to safeguard them from discipline or denial of licensure for providing care that would have been legal in Washington. Washington must do its part to protect patients across the country who are seeking access to safe care. The legal system should not be weaponized against providers. There is an increase in patients coming to Washington to seek care. This bill will help provide clarity and comfort to providers who live near the state borders or who may be licensed in multiple states. The legality of health care is a concern for providers living near the border. If the burden of providing care is too great, providers will leave the profession. Washington should expand protections for abortion providers. The Washington Medical Commission should be able to retain its ability to take action against practitioners who violate the standard of care.

(Opposed) The goal of the bill is to protect providers who provide abortions, and those providers are already protected in Washington. This bill is unnecessary to protect abortion providers. The inclusion of gender affirming care in the bill is dangerous and will have consequences for the people of Washington. It is illegal to perform certain gender affirming treatment procedures on minors, and there are "de-transitioners" who have spoken out about the harms.

Persons Testifying: (In support) Representative Marcus Riccelli, prime sponsor; Micah Matthews, Washington Medical Commission; Katina Rue, Washington State Medical Association; Jennifer Chin, American College of Obstetricians and Gynecologists Washington; Erin Berry; Anuj Khattar, Cedar River Clinics; Ashley Wilson; and Hilary Whitmore.

(Opposed) Christina Callahan.

Persons Signed In To Testify But Not Testifying: None.