

2SHB 1071 - H AMD

By Representative Campbell

WITHDRAWN 02/08/2006

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

3 "NEW SECTION. **Sec. 1.** The uniform disciplinary act provides a  
4 consistent process for addressing acts of unprofessional conduct  
5 affecting fifty-nine health professions regulated by the state. The  
6 disciplinary authorities include the secretary of health and sixteen  
7 boards and commissions charged with protecting the health and safety of  
8 patients from unprofessional conduct. It is recognized nationally as  
9 a model law and has worked well over time to provide uniformity and  
10 efficiency to the disciplinary process.

11 The legislature finds that there may be methods for increasing the  
12 efficiency and effectiveness of this model through the redistribution  
13 of duties between the secretary of health and the health professions  
14 boards and commissions. In addition, there is an opportunity to  
15 achieve greater consistency in the sanctions imposed across the health  
16 professions through specifically identified sanctions for specific acts  
17 of unprofessional conduct. A more consistent application of sanctions  
18 across professions protects both the safety of the public and the due  
19 process rights of all health care professionals.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.130 RCW  
21 to read as follows:

22 The secretary, with the advice and consultation of the other  
23 disciplining authorities, shall adopt a schedule that defines  
24 appropriate ranges of sanctions that are applicable to a finding after  
25 a hearing that a license holder has committed unprofessional conduct as  
26 defined in this chapter or the chapters specified in RCW 18.130.040(2).  
27 The schedule must identify aggravating and mitigating circumstances  
28 that may enhance or reduce the sanction imposed by the disciplining  
29 authority for each act of unprofessional conduct. The schedule must

1 apply to all disciplining authorities. In addition, the secretary  
2 shall make provisions for instances in which there are multiple  
3 findings of unprofessional conduct. When establishing the schedule,  
4 the secretary shall consider maintaining consistent sanction  
5 determinations that balance the protection of the public's health and  
6 the rights of health care providers of the different health  
7 professions.

8 **Sec. 3.** RCW 18.130.050 and 1995 c 336 s 4 are each amended to read  
9 as follows:

10 The disciplining authority has the following authority:

11 (1) To adopt, amend, and rescind such rules as are deemed necessary  
12 to carry out this chapter;

13 (2) To investigate all complaints or reports of unprofessional  
14 conduct as defined in this chapter and to hold hearings as provided in  
15 this chapter;

16 (3) To issue subpoenas and administer oaths in connection with any  
17 investigation, hearing, or proceeding held under this chapter;

18 (4) To take or cause depositions to be taken and use other  
19 discovery procedures as needed in any investigation, hearing, or  
20 proceeding held under this chapter;

21 (5) To compel attendance of witnesses at hearings;

22 (6) In the course of investigating a complaint or report of  
23 unprofessional conduct, to conduct practice reviews;

24 ~~(7) ((To take emergency action ordering summary suspension of a  
25 license, or restriction or limitation of the licensee's practice  
26 pending proceedings by the disciplining authority;~~

27 ~~(8))~~ To use a presiding officer as authorized in RCW 18.130.095(3)  
28 or the office of administrative hearings as authorized in chapter 34.12  
29 RCW to conduct hearings. The disciplining authority shall make the  
30 final decision regarding disposition of the license unless the  
31 disciplining authority elects to delegate in writing the final decision  
32 to the presiding officer;

33 ~~((9))~~ (8) To use individual members of the boards to direct  
34 investigations. However, the member of the board shall not  
35 subsequently participate in the hearing of the case;

36 ~~((10))~~ (9) To enter into contracts for professional services  
37 determined to be necessary for adequate enforcement of this chapter;

1       (~~(11)~~) (10) To contract with licensees or other persons or  
2 organizations to provide services necessary for the monitoring and  
3 supervision of licensees who are placed on probation, whose  
4 professional activities are restricted, or who are for any authorized  
5 purpose subject to monitoring by the disciplining authority;

6       (~~(12)~~) (11) To adopt standards of professional conduct or  
7 practice;

8       (~~(13)~~) (12) To grant or deny license applications, and in the  
9 event of a finding of unprofessional conduct by an applicant or license  
10 holder, to impose any sanction consistent with section 2 of this act  
11 against a license applicant or license holder provided by this chapter;

12       (~~(14)~~) (13) To designate individuals authorized to sign subpoenas  
13 and statements of charges;

14       (~~(15)~~) (14) To establish panels consisting of three or more  
15 members of the board to perform any duty or authority within the  
16 board's jurisdiction under this chapter;

17       (~~(16)~~) (15) To review and audit the records of licensed health  
18 facilities' or services' quality assurance committee decisions in which  
19 a licensee's practice privilege or employment is terminated or  
20 restricted. Each health facility or service shall produce and make  
21 accessible to the disciplining authority the appropriate records and  
22 otherwise facilitate the review and audit. Information so gained shall  
23 not be subject to discovery or introduction into evidence in any civil  
24 action pursuant to RCW 70.41.200(3).

25       **Sec. 4.** RCW 18.130.060 and 2001 c 101 s 1 are each amended to read  
26 as follows:

27       In addition to the authority specified in RCW 18.130.050, the  
28 secretary has the following additional authority:

29       (1) To employ such investigative, administrative, and clerical  
30 staff as necessary for the enforcement of this chapter;

31       (2) Upon the request of a board, to appoint pro tem members to  
32 participate as members of a panel of the board in connection with  
33 proceedings specifically identified in the request. Individuals so  
34 appointed must meet the same minimum qualifications as regular members  
35 of the board. Pro tem members appointed for matters under this chapter  
36 are appointed for a term of no more than one year. No pro tem member  
37 may serve more than four one-year terms. While serving as board

1 members pro tem, persons so appointed have all the powers, duties, and  
2 immunities, and are entitled to the emoluments, including travel  
3 expenses in accordance with RCW 43.03.050 and 43.03.060, of regular  
4 members of the board. The chairperson of a panel shall be a regular  
5 member of the board appointed by the board chairperson. Panels have  
6 authority to act as directed by the board with respect to all matters  
7 concerning the review, investigation, and adjudication of all  
8 complaints, allegations, charges, and matters subject to the  
9 jurisdiction of the board. The authority to act through panels does  
10 not restrict the authority of the board to act as a single body at any  
11 phase of proceedings within the board's jurisdiction. Board panels may  
12 make interim orders and issue final decisions with respect to matters  
13 and cases delegated to the panel by the board. Final decisions may be  
14 appealed as provided in chapter 34.05 RCW, the Administrative Procedure  
15 Act;

16 (3) To establish fees to be paid for witnesses, expert witnesses,  
17 and consultants used in any investigation and to establish fees to  
18 witnesses in any agency adjudicative proceeding as authorized by RCW  
19 34.05.446;

20 (4) To conduct investigations and practice reviews at the direction  
21 of the disciplining authority and to issue subpoenas, administer oaths,  
22 and take depositions in the course of conducting those investigations  
23 and practice reviews at the direction of the disciplining authority;

24 (5) To take emergency action ordering summary suspension of a  
25 license, or restriction or limitation of the license holder's practice  
26 pending proceedings by the disciplining authority;

27 (6) To have the health professions regulatory program establish a  
28 system to recruit potential public members, to review the  
29 qualifications of such potential members, and to provide orientation to  
30 those public members appointed pursuant to law by the governor or the  
31 secretary to the boards and commissions specified in RCW  
32 18.130.040(2)(b), and to the advisory committees and councils for  
33 professions specified in RCW 18.130.040(2)(a).

34 **Sec. 5.** RCW 18.130.160 and 2001 c 195 s 1 are each amended to read  
35 as follows:

36 Upon a finding, after hearing, that a license holder or applicant  
37 has committed unprofessional conduct or is unable to practice with

1 reasonable skill and safety due to a physical or mental condition, the  
2 disciplining authority may issue an order providing for one or any  
3 combination of the following, in accordance with the schedule adopted  
4 by the secretary in section 2 of this act:

- 5 (1) Revocation of the license;
- 6 (2) Suspension of the license for a fixed or indefinite term;
- 7 (3) Restriction or limitation of the practice;
- 8 (4) Requiring the satisfactory completion of a specific program of  
9 remedial education or treatment;
- 10 (5) The monitoring of the practice by a supervisor approved by the  
11 disciplining authority;
- 12 (6) Censure or reprimand;
- 13 (7) Compliance with conditions of probation for a designated period  
14 of time;
- 15 (8) Payment of a fine for each violation of this chapter, not to  
16 exceed five thousand dollars per violation. Funds received shall be  
17 placed in the health professions account;
- 18 (9) Denial of the license request;
- 19 (10) Corrective action;
- 20 (11) Refund of fees billed to and collected from the consumer;
- 21 (12) A surrender of the practitioner's license in lieu of other  
22 sanctions, which must be reported to the federal data bank.

23 Any of the actions under this section may be totally or partly  
24 stayed by the disciplining authority. In determining what action is  
25 appropriate, the disciplining authority must consider the schedule  
26 adopted by the secretary in section 2 of this act. Where the schedule  
27 allows flexibility in determining the appropriate sanction, the  
28 disciplining authority must first consider what sanctions are necessary  
29 to protect or compensate the public. Only after such provisions have  
30 been made may the disciplining authority consider and include in the  
31 order requirements designed to rehabilitate the license holder or  
32 applicant. All costs associated with compliance with orders issued  
33 under this section are the obligation of the license holder or  
34 applicant.

35 The licensee or applicant may enter into a stipulated disposition  
36 of charges that includes one or more of the sanctions of this section,  
37 but only after a statement of charges has been issued and the licensee  
38 has been afforded the opportunity for a hearing and has elected on the

1 record to forego such a hearing. The stipulation shall either contain  
2 one or more specific findings of unprofessional conduct or inability to  
3 practice, or a statement by the licensee acknowledging that evidence is  
4 sufficient to justify one or more specified findings of unprofessional  
5 conduct or inability to practice. The stipulation entered into  
6 pursuant to this subsection shall be considered formal disciplinary  
7 action for all purposes."

8 Correct the title.

EFFECT: Eliminates the work group responsible for studying the complaint processing and sanction determination phases of the disciplinary process.

Instructs the secretary, of health after consulting the other disciplining authorities, to establish a schedule of ranges of sanctions, including aggravating and mitigating circumstances, for acts of unprofessional conduct committed by health care providers. Requires that all disciplining authorities follow the schedule.

Transfers the authority of the health professions boards and commissions to issue summary suspensions to the exclusive authority of the secretary.

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