

SENATE BILL REPORT

2SSB 5509

As Passed Senate, March 13, 2007

Title: An act relating to disciplinary actions for health care providers regulated under chapter 18.130 RCW.

Brief Description: Concerning disciplinary actions for health care providers regulated under chapter 18.130 RCW.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kastama, Pflug, Kohl-Welles, Keiser, Parlette, Carrell, Regala and Franklin).

Brief History:

Committee Activity: Health & Long-Term Care: 2/05/07, 2/22/07 [DPS-WM].

Ways & Means: 2/28/07, 3/05/07 [DP2S].

Passed Senate: 3/13/07, 46-0.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5509 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug, Ranking Minority Member; Carrell, Fairley, Kastama, Kohl-Welles, Marr and Parlette.

Staff: Edith Rice (786-7444)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5509 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Elaine Deschamps (786-7441)

Background: Under the Uniform Disciplinary Act for the Regulation of Health Professionals (UDA), a written complaint against a health professional may be submitted to the disciplinary authority charging a license holder with unprofessional conduct. The grounds for such a

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report may be specified. The complaint must be signed by the complainant or their legal representative.

The disciplinary authority must determine that there is probable cause to merit an investigation. In the event that an investigation is warranted, the disciplinary authority may consult with a practitioner who utilizes the procedure in question in the complaint to determine whether the subject of the complaint is guilty of unprofessional conduct. The disciplinary authority must provide the testimony of a practitioner who uses the procedure that is the subject of the complaint – or when there is no such practitioner readily available, a practitioner who practices complementary alternative medicine may be used. A complaint filed in good faith is immune from suit in a civil action related to the filing of the complaint. In the event that any proof of harm to a patient is not presented and the complaint is based solely on the use of a procedure, the complaint is not in good faith. False advertising is defined.

Summary of Second Substitute Bill: A complainant or legal representative must sign the written complaint submitted to the disciplinary authority. The disciplinary authority must determine that there is probable cause to merit an investigation for each complaint. In the event that an investigation is warranted, the disciplinary authority may consult with a practitioner who utilizes the procedure in question in the complaint to determine whether the subject of the complaint is guilty of unprofessional conduct. The disciplinary authority must provide the testimony of a practitioner who uses the procedure that is the subject of the complaint – or when there is no such practitioner readily available, a practitioner who practices complementary alternative medicine may be used. In the event that any proof of harm to a patient is not presented and the complaint is based solely on the use of a procedure, the complaint is not in good faith. False advertising is defined.

Appropriation: None.

Fiscal Note: Available on original. Substitute requested on February 24, 2007.

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 Original Bill (Health & Long-Term Care): PRO: This bill would preclude investigation if there is no harm or complaint of harm to a patient. Forty percent of our practitioners are being investigated when there has been no harm or complaint of harm to a patient. This is really a turf war, its clear that we are being targeted. Alternative medicine practitioners are really helping people, in particular those who are dealing with autism.

CON: We are concerned about patient safety if we can only take action if actual harm has occurred. Requiring a signature could impede the reporting process.

OTHER: We are concerned about possible retaliation. It may be impossible to find others who use the same procedure. Terminal patients may try anything.

Persons Testifying (Health & Long-Term Care): PRO: Martin J. Durkin, Health Freedom Foundation; Dr. Jonathan Wright, Tacoma Clinic; Dr. Bradford Weeks, Tami Giles, Denise Rohrbeck-Fulton, Autism Research Institute.

CON: Laurie Jinkins, Assistant Secretary Department of Health; Tim Layton, Washington State Medical Association.

OTHER: Timothy Sears, Washington State Nurses Association.

Staff Summary of Public Testimony on Substitute Bill (Ways & Means): PRO: This bill intends to end the use of frivolous complaints against doctors. There has been a rash of anonymous complaints, which become costly for both the department and practitioners to defend themselves. The bill was amended to address cost concerns by the Department of Health, and we will continue to work with them on their concerns.

Persons Testifying (Ways & Means): PRO: Martin Durkan, Health Freedom Foundation.