

**SENATE BILL REPORT**

**SB 6029**

**AS OF JANUARY 17, 1992**

**Brief Description:** Providing for health professional quality assurance.

**SPONSORS:** Senators West and Johnson

**SENATE COMMITTEE ON HEALTH & LONG-TERM CARE**

**Staff:** Scott Plack (786-7409)

**Hearing Dates:** January 21, 1992

**BACKGROUND:**

The state of Washington regulates over 30 different types of health professionals. The purpose of state regulation is to assure public protection against unsafe practice and unprofessional conduct. The public expects that the current regulatory system guarantees high quality health care services are being provided by the regulated health professionals.

The regulatory system, however, is limited in its ability to assure such protection. The current system is composed of three major components which include initial demonstration of competency through examination of applicants for licensure or certification, continuing education requirements for licensure renewal, and the discipline of professionals for unsafe practice or unprofessional conduct. Each has limitations.

Licensure and certification assure minimal competence at the time of initial credentialing but do not guarantee that a practitioner remains professionally competent throughout his or her career. Continuing education has been demonstrated of only limited value in assuring continued competence. Disciplinary actions against health professionals usually occur only after a complaint has been filed against the professional and when harm has already occurred to the consumer. There have been efforts to improve the regulatory system, such as through the establishment of the impaired health professional program, but the state still lacks a comprehensive "Quality Assurance System" that provides the depth of consumer protection expected by the public.

Currently there are 20 separate regulatory authorities responsible for disciplining the state's health professionals credentialed under Title 18 RCW. Nineteen of the professions are disciplined by independent regulatory boards or advisory committees. The remaining 11 professions are disciplined by the Secretary of Health. The boards and advisory committees are comprised largely of members of the profession with some

representation of consumers and occasionally other health professions.

All of the health care professions, excepting a few, are subject to the provisions of the Uniform Disciplinary Act (UDA). The UDA is intended to provide for uniform discipline of health care professionals. The separate boards and advisory committees, however, are free to adopt different interpretations of the UDA and this can result in differences in the discipline of health professionals charged with similar offenses.

The disciplinary system is also increasingly legalistic due to the fact that subject of discipline is an individual's right to earn income through the practice of his or her profession. Such circumstances suggest that the most effective adjudication of disciplinary cases should be by non-health professional hearing examiners. Some argue that a single disciplinary authority composed of such individuals would increase the uniformity, objectivity and efficiency of the disciplinary process.

Practice parameters (or practice guidelines) for health care services and professions are viewed by many as an objective means of setting standards of practice and measuring provider performance. Many see the use of practice parameters as a means to improve the quality of health care services by identifying sub-standard performance before complaints are filed or malpractice takes place. Practice parameters have been developed or are close to being developed for physicians practicing obstetrics and gynecology, emergency medicine and cardiology.

Current state law provides that superior courts may require mandatory pre-trial arbitration of litigation when the amount of the claim is under \$35,000. Arbitration is viewed as a more efficient and less threatening way to resolve disputes between parties. Some believe that arbitration of health care malpractice cases may help control health care costs. Savings are expected from reduced litigation costs involved when matters are resolved through arbitration instead of by trial.

The state Board of Pharmacy is one of the few health care professions regulated under Title 18 RCW that is currently not subject to the UDA.

**SUMMARY:**

A health care professional quality assurance system is established. System policy goals are specified and include assuring that consumer safety is the primary objective of the system, health professionals are minimally competent upon initial credentialing and remain competent throughout their careers, and health professionals are expeditiously disciplined for unsafe practice or unprofessional conduct.

The elements of the quality assurance system are specified and include: assessment of applicants for credentialing,

development and use of acceptable practice standards, ongoing assessment of unsafe and unprofessional practice, continued competency activities, expeditious discipline of health care professionals when appropriate, and the resolution of conflicts involving the provision of services.

The Health Professional Quality Assurance (HPQA) Committee is established. The HPQA Committee will adjudicate disciplinary actions for all of the state's regulated health professions under Title 18 RCW except for funeral directors and embalmers. The existing separate disciplinary boards for medicine, dentistry and chiropractic are repealed.

The HPQA Committee is comprised of five members. Three of the five are appointed by the Governor and must be members of the state Bar Association. The remaining two are rotating members from the profession having jurisdiction over the disciplinary case being considered by the HPQA Committee. They are selected from the licensing board or advisory committee of the profession. One must be a health professional and the other a consumer. The Governor-appointed members serve for six years and are full-time employees. The Governor may also appoint up to three pro tempore members when the workload of the HPQA Committee requires additional members.

The HPQA Committee may appoint ad-hoc committees to assist it to adjudicate disciplinary matters. The Secretary of Health provides administrative support and shall employ an executive director for the HPQA Committee. In addition, legal, health care and insurance professional staff are to be employed to provide technical assistance.

The HPQA Committee derives its disciplinary authority from the Uniform Disciplinary Act (UDA). The licensing boards and Secretary of Health are responsible for adopting rules concerning standards of professional conduct and practice, including scope of practice issues. The cost of disciplinary activities are to be shared equally by all credentialed health professionals through a surcharge on application and renewals.

All health care malpractice claims are subject to mandatory arbitration regardless of the amount of the claim. Arbitration panels are to be appointed by the HPQA Committee and must meet the minimum qualifications established by the Supreme Court under the mandatory arbitration statutes (Chapter 7.06 RCW). Either party may appeal the arbitration award in superior court in a trial de novo but will be assessed all costs and attorneys' fees if they fail to improve their position.

The Department of Health (DOH), the Department of Social and Health Services (DSHS), the Health Care Authority, the Insurance Commissioner and three representatives of insurers or health care professionals appointed by the Governor are required to develop a health professional data information plan. The plan shall identify existing data systems within state government that monitor the quality of health care services, provide strategies to standardize and coordinate

such data systems, develop strategies to use privately collected data, propose a data system for use by the HPQA Committee to help it identify health professionals engaged in unsafe practice and unprofessional conduct, and propose a data system necessary to develop practice parameters and monitor professional compliance with the parameters. The plan shall be submitted to the Legislature by December 1, 1992 with recommendations for statutory changes needed for its implementation. The Governor shall implement those portions needing no statutory change.

The Health Care Services Practice Parameters Development (HCSPPD) Committee is formed to develop practice parameters and risk management protocols for health professions regulated under Title 18 RCW. The HCSPPD Committee is composed of five members appointed by the Governor, including a consumer, a health care professional, a payer of health care services, a research or clinical expert in the development of practice parameters, and a DOH representative. Initially practice parameters will be developed for physicians practicing emergency medicine, obstetrics and gynecology and cardiology.

Practice parameters will define appropriate clinical indications and methods of treatment and risk management protocols will establish standards of practice to prevent malpractice occurrences. The HCSPPD Committee shall appoint technical advisory committees composed of individuals with technical and clinical expertise necessary to develop protocols, including representatives from the appropriate state regulatory authorities governing the affected health profession. The HCSPPD Committee shall devise a method for dissemination of the practice parameters and risk management protocols to the affected health professions and shall monitor professional compliance.

The initial practice parameters and risk management protocols shall be developed by July 1, 1993. The HCSPPD Committee shall report to the Legislature and the Governor by October 1, 1993 with a status report and recommendations on other health care services and professions where additional parameters and protocols should be developed. The development of additional practice parameters and risk management protocols shall proceed with the approval of the Governor.

Beginning on January 1, 1994 a health care professional or health care professional's employer may plead as an affirmative defense to a claim of professional negligence compliance with the practice parameters and risk management protocols developed by the HCSPPD Committee. This applies to causes of action accruing after January 1, 1994 and only for professions or medical specialties where practice parameters and risk management protocols have been developed. Physicians who practice obstetrics and gynecology, emergency medicine and cardiology are required to use the applicable practice parameters and risk management protocols after this date or are subject to discipline under the UDA.

Pharmacists and pharmacy assistants are subject to the state's Uniform Disciplinary Act.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested January 10, 1992