

HOUSE BILL REPORT

EHB 1256

As Passed House
March 15, 1993

Title: An act relating to the disciplining of health professionals.

Brief Description: Modifying disciplining of health professionals under the uniform disciplinary act.

Sponsors: Representatives Dellwo, Morris and Dyer; by request of Department of Health.

Brief History:

Reported by House Committee on:
Health Care, February 19, 1993, DPA;
Passed House, March 15, 1993, 97-0.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: Do pass as amended. Signed by 15 members: Representatives Dellwo, Chair; L. Johnson, Vice Chair; Dyer, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Appelwick; Campbell; Conway; Cooke; Flemming; R. Johnson; Lisk; Mastin; Morris; Thibaudeau; and Veloria.

Staff: John Welsh (786-7133).

Background: The Uniform Disciplinary Act provides disciplinary procedures and sanctions for unprofessional conduct for the health professions regulated by the state. Currently, the act does not cover health care assistants, nor the practice of pharmacy. However, pharmacy is currently covered under the procedures of the voluntary substance abuse monitoring program.

A disciplinary authority such as a board or the secretary of health may levy a fine for unprofessional conduct not exceeding \$1,000.

Liability insurers are required to report to the Medical Disciplinary Board any physician's malpractice settlement, award or payment in excess of \$20,000, and three or more claims in a year.

Physicians are required to pay an annual medical disciplinary assessment equal to the license renewal fee, but the assessment is not required of physician assistants.

The secretary of health is required to investigate complaints against persons for unlicensed practice, and may issue cease and desist orders after notice and hearing. However, the secretary has no authority to fine persons for unlicensed practice. The secretary may also issue temporary cease and desist orders where the public interest could be irreparably harmed by any delay.

In lieu of issuing a statement of charges or conducting a hearing on any complaint alleging a violation of the Uniform Disciplinary Act, a disciplinary authority may enter into an assurance of discontinuance with a license holder which consists of a statement of the law and an agreement not to violate it. This is not to be construed as an admission of any violation. However, there is no provision for the parties to enter into either a formal or informal stipulated agreement in disposing of disciplinary complaints.

The disciplinary authorities do not have the ability to establish panels of board members to delegate their duties, nor the authority to review and audit records of hospital quality assurance committee decisions terminating or restricting the practice privileges of health practitioners.

The secretary is required to appoint a medical practice investigator to inspect the registration and utilization of physician assistants.

Summary of Bill: The disciplinary procedures and sanctions for unprofessional conduct of the Uniform Disciplinary Act are extended to cover health care assistants and the practice of pharmacy.

The maximum amount of fine is raised from \$1,000 to \$5,000.

Liability insurers are required to report to the Medical Disciplinary Board any physician's malpractice settlement, award or payment in excess of \$100,000 and three or more malpractice claims in a five-year time period.

Physician assistants, in addition to physicians, are required to pay an annual medical disciplinary assessment.

The authority of the secretary to issue cease and desist orders is clarified. The secretary may issue a notice of intention to issue a cease and desist order, subject to a request for an adjudicative hearing. The request must be made within 20 days after service of the notice. Failure to

request a hearing constitutes a default and may result in a permanent cease and desist order, and may include a fine of up to \$1,000 for each day of unlicensed practice. The secretary may also issue a temporary cease and desist order subject to the right of a prompt hearing.

The use of the assurance of discontinuance for a disposition of a complaint is repealed and replaced with the stipulated agreement. A disciplinary authority may enter into a formal or informal stipulated agreement with a license holder, where the license holder has elected to forego a hearing. The formal stipulated agreement can be entered into after the filing of any charges against the license holder and contains findings of unprofessional conduct and sanctions. An informal stipulated agreement can be entered into prior to the filing of charges and contains a statement of the finding of facts; a statement that the stipulation is not to be construed as a finding of unprofessional conduct, but that the findings if proven constitute grounds for discipline; and an agreement that specified sanctions may be imposed. As part of the stipulated agreement, the license holder may agree to reimburse the costs of the investigation up to \$1,000 per violation; and the disciplinary authority may agree to forego further disciplinary proceedings.

The disciplinary authorities may establish panels of three or more board members to perform the duties of the board. They are also authorized to review and audit the decisions of quality assurance committees terminating or restricting the practice privileges of health practitioners. Health facilities are required to produce these records to facilitate the audit. However these records may not be introduced into evidence in any civil action.

The position of medical practice investigator is repealed.

Changes of a technical nature are made involving statutory references, language corrections, and the repeal of conflicting statutes.

Fiscal Note: Available

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This is a bill requested by the Department of Health updating the Uniform Disciplinary Act. It strengthens the authority of the boards in dealing with violations of unprofessional conduct, and enhances the ability to protect the public. The act is extended to health care assistants who have no disciplinary process; the maximum amount of fines is raised to act as appropriate

deterrents; and disciplinary procedures for boards are streamlined by allowing for delegation of some matters to panels.

Testimony Against: None.

Witnesses: Jon Donnellan, Department of Licensing Funeral/Cemetery Unit (pro); Maria Gardipee, Department of Health (pro); Patti Rathbun, Department of Health (pro); Charles James, Department of Health (pro); Theresa Connel, Planned Parenthood (pro); and T.K. Bentler, Washington State Funeral Director and Washington State Cemeteries (con).