

FINAL BILL REPORT

ESSB 5948

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SYNOPSIS AS ENACTED

Brief Description: Modifying process and procedures for disciplining of health care professionals.

SPONSORS: Senate Committee on Health & Human Services (originally sponsored by Senators Deccio, Talmadge, Franklin, Prentice and McCaslin)

SENATE COMMITTEE ON HEALTH & HUMAN SERVICES

HOUSE COMMITTEE ON HEALTH CARE

BACKGROUND:

Most of the state's regulated health professions are subject to the Uniform Disciplinary Act (UDA). The UDA standardizes certain procedures related to the disciplining of health care professionals, as well as the range of sanctions available for imposition. The Secretary of Health is the disciplinary authority for 21 of the state's regulated health professions. Independent regulatory boards are the disciplinary authority for the remaining 19 health professions regulated by the state. Currently, only health care assistants and the practice of pharmacy are not subject to the UDA.

While disciplinary procedures are standardized under the UDA, the application of disciplinary procedures and sanctions vary among the health care professions. Each disciplinary authority may use different standards in deciding whether to pursue disciplinary investigations. They may also independently choose among the various sanctions authorized in law for imposition on persons found in violation of the UDA.

When charges are issued against an individual for a violation of the UDA, the person charged is allowed 20 days to request a hearing. The 20-day period may be insufficient for some license holders and no provision exists for allowing an extension.

License holders in authorized substance abuse treatment programs are not subject to discipline provided they meet program conditions and successfully complete treatment. Participants suffering a lapse in treatment may be disciplined regardless of whether they are making progress toward successful completion of treatment.

A disciplinary authority may enter into an assurance of discontinuance with a license holder under the UDA in lieu of issuing a statement of charges, or conducting a hearing on any

complaint. This consists of a statement of the law and an agreement by the license holder not to violate it. An assurance of discontinuance is not to be construed as an admission of any violation of the UDA. There is no provision for the parties to enter into either a formal or informal stipulated agreement in disposing of disciplinary complaints.

Currently, a disciplinary authority may levy a civil fine for unprofessional conduct not to exceed \$1,000 per violation.

Liability insurers are required to report to the Medical Disciplinary Board any physician's malpractice settlement, award or payment when there are three or more claims in a given year.

Physicians are required to pay an annual medical disciplinary assessment equal to the license renewal fee. The assessment is used to finance the cost of the Medical Disciplinary Board's disciplinary activities. The assessment is not currently charged to physician assistants who are also disciplined by the board.

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 to persons practicing without a license after notice and hearing, and upon the determination that the person has actually practiced without a license.

Most of the disciplinary authorities do not have the ability to establish panels of board members to delegate their duties. The disciplinary authorities also do not have the authority to review and audit records of hospital quality assurance committee decisions to terminate or restrict 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:

Health care assistants and the practice of pharmacy are subject to the Uniform Disciplinary Act (UDA).

Individuals charged with a violation of the UDA may be granted up to an additional 60 days to request a hearing on the charges. The disciplinary authority may grant such requests for good cause.

Modifications are made in the substance abuse treatment programs. Participants suffering a setback in complying with treatment program requirements will be encouraged to continue to participate in the program, and may do so without

disciplinary action, if progress is made towards successful completion of treatment.

The Secretary of Health shall develop uniform procedural rules to respond to public inquiries about complaints, investigations and final actions in disciplinary cases. Uniform procedures for conducting investigations are also required. Persons under investigation for a violation of the UDA shall be informed of the nature of the complaint, their right to legal counsel prior to making statements and that statements made by them may be used in adjudicative proceedings. Witnesses may also be informed that statements they make to investigators may be used in filing charges against the license holder, applicant or unlicensed person under investigation.

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 elects 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 allegations and facts. A stipulation is not a finding of unprofessional conduct. It alleges that unprofessional conduct or unsafe practice has occurred and, if proven, would constitute grounds for discipline. The stipulation includes an agreement that specified sanctions may be imposed. The license holder may agree to reimburse the costs of the investigation up to \$1,000 per violation. Under a stipulated agreement the disciplinary authority may agree to forego further disciplinary proceedings.

Upon the request of a disciplinary authority, the Secretary of Health or designee may serve as the presiding officer during all proceedings involving disciplinary actions for violations of the UDA. This does not apply to violations of the Funeral Directors' and Embalmers' Practice Act. When the disciplinary authority for the profession involved in the proceeding is a regulatory board the presiding officer shall not have a vote on the final decision.

The maximum amount of civil fines that a disciplinary authority may assess to a violator of the UDA is raised to \$5,000.

Malpractice liability insurers are required to report to the Medical Disciplinary Board physician malpractice awards, settlements, or payment of three or more claims during a five-year period. Physician assistants are required to pay a fee to support their discipline under the UDA.

The authority of the Secretary of Health to issue cease and desist orders for unlicensed practice is clarified. The

secretary may issue a notice of intention to issue a cease and desist order. The alleged violator may request 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 an immediate temporary cease and desist order if the public interest will be irreparably harmed by a delay. The alleged violator shall be given the opportunity to a prompt hearing following issuance of the order.

The health profession regulatory boards are allowed to form subcommittees to conduct business.

The disciplinary authorities are allowed access to the records of quality assurance committees in hospitals. The records are generally not subject to discovery or introduction in civil actions, except under certain circumstances.

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.

VOTES ON FINAL PASSAGE:

Senate	49	0	
House	88	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	93	0
Senate	43	0

EFFECTIVE: July 25, 1993