

SENATE BILL REPORT

ESSB 5948

AS PASSED SENATE, MARCH 15, 1993

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

Majority Report: That Substitute Senate Bill No. 5948 be substituted therefor, and the substitute bill do pass.

Signed by Senators Talmadge, Chairman; Wojahn, Vice Chairman; Deccio, Erwin, Franklin, Fraser, Hargrove, McAuliffe, Moyer, Niemi, Quigley, Sheldon, L. Smith, and Winsley.

Staff: Scott Plack (786-7409)

Hearing Dates: March 3, 1993

HOUSE COMMITTEE ON HEALTH CARE

BACKGROUND:

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.

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 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.

Some argue that uniform procedures are needed to assure that the UDA is consistently and objectively applied among the regulated health professions.

SUMMARY:

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.

Representatives of a disciplinary authority may enter into a written settlement agreement with a person charged with a violation of the UDA. They may impose any lawful sanctions against such person without issuing a finding of unprofessional conduct or inability to practice. Such settlement agreements must be approved by the disciplinary authority. If a settlement agreement is not approved, and the case proceeds to a hearing, any person who participated in the decision to not approve the settlement may not serve as a hearing officer or board panel member during the hearing.

The Secretary of Health or designee shall 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.

Appropriation: none

Revenue: none

Fiscal Note: requested

TESTIMONY FOR: None

TESTIMONY AGAINST: None

TESTIFIED: No one

HOUSE AMENDMENT(S):

The provision establishing uniform procedures for written settlements is removed. Health care assistants and the practice of pharmacy are subject to the Uniform Disciplinary Act (UDA). Uniform procedures for voluntary and mandatory stipulated dispositions are provided.

Malpractice liability insurers are required to report to the Medical Disciplinary Board physician malpractice awards that exceed \$20,000. Physician assistants are required to pay a fee to support their discipline under the UDA.

The Secretary of the Department of Health (DOH) is allowed to issue cease and desist orders for unlicensed practice and to assess civil fines of no more than \$1,000. The health profession regulatory boards are allowed to form subcommittees to conduct business.

DOH and the boards 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.