

HOUSE BILL REPORT

ESHB 1057

As Amended by the Senate

Title: An act relating to public disclosure of complaints filed under the uniform disciplinary act.

Brief Description: Limiting public disclosure of complaints filed under the uniform disciplinary act.

Sponsors: By House Committee on Health Care (originally sponsored by Representatives Backlund and Cody; by request of Department of Health).

Brief History:

Committee Activity:

Health Care: 1/21/97, 1/31/97 [DPS].

Floor Activity:

Passed House: 2/21/97, 95-0.

Senate Amended.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Dyer, Chairman; Backlund, Vice Chairman; Skinner, Vice Chairman; Cody, Ranking Minority Member; Anderson; Conway; Parlette; Sherstad; Wood and Zellinsky.

Minority Report: Without recommendation. Signed by 1 member: Representative Murray, Assistant Ranking Minority Member.

Staff: John Welsh (786-7133).

Background: The Uniform Disciplinary Act provides procedures and sanctions for unprofessional conduct committed by professionals who are licensed, certified, or registered by the Department of Health. The Secretary of Health and 14 boards and commissions serve as the disciplinary authorities for these regulated professions and share responsibility for responding to complaints, conducting investigations, and taking appropriate disciplinary action where appropriate.

Under the Public Disclosure Act, the existence of a complaint against a health professional is a public record subject to disclosure by the Department of Health over the telephone upon request, even though the complaint may be unsubstantiated.

Complaints being investigated or which warrant no cause for action must also be disclosed, as well as those which lead to a formal charge against a health professional. The record of these complaints is also subject to disclosure.

The health professional is notified of a complaint except when notification may compromise the investigation. Currently, the law does not provide the health professional an opportunity to file a written statement regarding the complaint.

Summary of Bill: Licensees must be notified upon the receipt of any complaints against them, and allowed to submit a written statement about the complaint for the file. Complaints are exempt from public disclosure until initially assessed and determined to warrant an investigation by the disciplining authority. Complaints determined not to warrant an investigation are no longer considered complaints, but remain in the record and tracking system, and may be released only upon written request. Complaints determined to warrant no cause for action after investigation are subject to public disclosure, and must include an explanation of the determination to close the complaint and remain in the records and tracking system of the department.

EFFECT OF SENATE AMENDMENT(S): Information about complaints that did not warrant an investigation may be released only pursuant to a written public disclosure request or interagency agreement. The Secretary of Health, on behalf of the disciplining authorities, must enter into interagency agreements for the exchange of records if access to records will assist those agencies in meeting their federal or state statutory responsibilities. However, state agencies are subject to the same limitations on disclosure as the disciplining authorities. The provisions of this bill do not affect the use of records in any existing investigation by a state agency, nor do they limit the existing exchange of information between the disciplining authorities and state agencies.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: In the current competitive health environment, health professionals are coming under increasing scrutiny when applying for inclusion in health plans as providers of health services to subscribers. The mere existence of an unsubstantiated complaint filed against them may damage their reputations and foreclose their ability to associate with health care plans. The disclosure of unsubstantiated complaints is unfair, and prejudices their ability to make a living.

Testimony Against: (original bill) No complaint should be disclosed to the public except those which have been investigated and determined as cause for action leading

to a formal charge. The bill does not go far enough, and only restricts disclosure of frivolous complaints after an initial assessment.

Testified: Ron Weaver, Department of Health (pro); Carl Nelson, Washington State Medical Association (pro); Gail McGaffick, Washington State Psychological Association (pro); Lisa Thatcher, Washington State Nurses Association (pro); Ann Simons, Washington Association for Marriage and Family Therapy (pro); Diane Kramer, Washington Newspaper Publishers Association (con); and Roland Thompson, Allied Daily Newspapers (con).