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ENGROSSED SUBSTITUTE HOUSE BILL 1057

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State of Washington

55th Legislature

1997 Regular Session

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

Read first time 02/04/97.

1 AN ACT Relating to public disclosure of complaints filed under the  
2 uniform disciplinary act; amending RCW 18.130.095; and adding a new  
3 section to chapter 42.17 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 18.130.095 and 1995 c 336 s 6 are each amended to read  
6 as follows:

7 (1) The secretary, in consultation with the disciplining  
8 authorities, shall develop uniform procedural rules to respond to  
9 public inquiries concerning complaints and their disposition, active  
10 investigations, statement of charges, findings of fact, and final  
11 orders involving a licensee, applicant, or unlicensed person. The  
12 uniform procedural rules adopted under this subsection apply to all  
13 adjudicative proceedings conducted under this chapter and shall include  
14 provisions for ((the)) establishing time periods for initial  
15 assessment, investigation, charging, discovery, settlement, and  
16 adjudication of complaints, and shall include enforcement provisions  
17 for violations of the specific time periods by the department, the  
18 disciplining authority, and the respondent. A licensee must be  
19 notified upon receipt of a complaint, except when the notification

1 would impede an effective investigation. At the earliest point of time  
2 the licensee must be allowed to submit a written statement about that  
3 complaint, which statement must be included in the file. Complaints  
4 filed after the effective date of this act are exempt from public  
5 disclosure under chapter 42.17 RCW until the complaint has been  
6 initially assessed and determined to warrant an investigation by the  
7 disciplining authority. Complaints determined not to warrant an  
8 investigation by the disciplining authority are no longer considered  
9 complaints, but must remain in the records and tracking system of the  
10 department. Information about complaints that did not warrant an  
11 investigation, including the existence of the complaint, may be  
12 released only upon receipt of a written public disclosure request.  
13 Complaints determined to warrant no cause for action after  
14 investigation are subject to public disclosure, must include an  
15 explanation of the determination to close the complaint, and must  
16 remain in the records and tracking system of the department.

17 (2) The uniform procedures for conducting investigations shall  
18 provide that prior to taking a written statement:

19 (a) For violation of this chapter, the investigator shall inform  
20 such person, in writing of: (i) The nature of the complaint; (ii) that  
21 the person may consult with legal counsel at his or her expense prior  
22 to making a statement; and (iii) that any statement that the person  
23 makes may be used in an adjudicative proceeding conducted under this  
24 chapter; and

25 (b) From a witness or potential witness in an investigation under  
26 this chapter, the investigator shall inform the person, in writing,  
27 that the statement may be released to the licensee, applicant, or  
28 unlicensed person under investigation if a statement of charges is  
29 issued.

30 (3) Only upon the authorization of a disciplining authority  
31 identified in RCW 18.130.040(2)(b), the secretary, or his or her  
32 designee, may serve as the presiding officer for any disciplinary  
33 proceedings of the disciplining authority authorized under this  
34 chapter. Except as provided in RCW 18.130.050(8), the presiding  
35 officer shall not vote on or make any final decision. All functions  
36 performed by the presiding officer shall be subject to chapter 34.05  
37 RCW. The secretary, in consultation with the disciplining authorities,  
38 shall adopt procedures for implementing this subsection.

1 (4) The uniform procedural rules shall be adopted by all  
2 disciplining authorities listed in RCW 18.130.040(2), and shall be used  
3 for all adjudicative proceedings conducted under this chapter, as  
4 defined by chapter 34.05 RCW. The uniform procedural rules shall  
5 address the use of a presiding officer authorized in subsection (3) of  
6 this section to determine and issue decisions on all legal issues and  
7 motions arising during adjudicative proceedings.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.17 RCW  
9 under the subchapter heading "public records" to read as follows:

10 Complaints filed under chapter 18.130 RCW after the effective date  
11 of this act are exempt from disclosure under this chapter to the extent  
12 provided in RCW 18.130.095(1).

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