
HOUSE BILL 1745

State of Washington

55th Legislature

1997 Regular Session

By Representatives Poulsen, Cody, Costa, Constantine, Skinner, Dickerson, Kenney, Blalock, Murray, Clements, Keiser, Scott and Gombosky

Read first time 02/06/97. Referred to Committee on Health Care.

1 AN ACT Relating to sexual abuse by health professionals; and
2 amending RCW 18.130.180.

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

4 **Sec. 1.** RCW 18.130.180 and 1995 c 336 s 9 are each amended to read
5 as follows:

6 The following conduct, acts, or conditions constitute
7 unprofessional conduct for any license holder or applicant under the
8 jurisdiction of this chapter:

9 (1) The commission of any act involving moral turpitude,
10 dishonesty, or corruption relating to the practice of the person's
11 profession, whether the act constitutes a crime or not. If the act
12 constitutes a crime, conviction in a criminal proceeding is not a
13 condition precedent to disciplinary action. Upon such a conviction,
14 however, the judgment and sentence is conclusive evidence at the
15 ensuing disciplinary hearing of the guilt of the license holder or
16 applicant of the crime described in the indictment or information, and
17 of the person's violation of the statute on which it is based. For the
18 purposes of this section, conviction includes all instances in which a
19 plea of guilty or nolo contendere is the basis for the conviction and

1 all proceedings in which the sentence has been deferred or suspended.
2 Nothing in this section abrogates rights guaranteed under chapter 9.96A
3 RCW;

4 (2) Misrepresentation or concealment of a material fact in
5 obtaining a license or in reinstatement thereof;

6 (3) All advertising which is false, fraudulent, or misleading;

7 (4) Incompetence, negligence, or malpractice which results in
8 injury to a patient or which creates an unreasonable risk that a
9 patient may be harmed. The use of a nontraditional treatment by itself
10 shall not constitute unprofessional conduct, provided that it does not
11 result in injury to a patient or create an unreasonable risk that a
12 patient may be harmed;

13 (5) Suspension, revocation, or restriction of the individual's
14 license to practice any health care profession by competent authority
15 in any state, federal, or foreign jurisdiction, a certified copy of the
16 order, stipulation, or agreement being conclusive evidence of the
17 revocation, suspension, or restriction;

18 (6) The possession, use, prescription for use, or distribution of
19 controlled substances or legend drugs in any way other than for
20 legitimate or therapeutic purposes, diversion of controlled substances
21 or legend drugs, the violation of any drug law, or prescribing
22 controlled substances for oneself;

23 (7) Violation of any state or federal statute or administrative
24 rule regulating the profession in question, including any statute or
25 rule defining or establishing standards of patient care or professional
26 conduct or practice;

27 (8) Failure to cooperate with the disciplining authority by:

28 (a) Not furnishing any papers or documents;

29 (b) Not furnishing in writing a full and complete explanation
30 covering the matter contained in the complaint filed with the
31 disciplining authority;

32 (c) Not responding to subpoenas issued by the disciplining
33 authority, whether or not the recipient of the subpoena is the accused
34 in the proceeding; or

35 (d) Not providing reasonable and timely access for authorized
36 representatives of the disciplining authority seeking to perform
37 practice reviews at facilities utilized by the license holder;

- 1 (9) Failure to comply with an order issued by the disciplining
2 authority or a stipulation for informal disposition entered into with
3 the disciplining authority;
- 4 (10) Aiding or abetting an unlicensed person to practice when a
5 license is required;
- 6 (11) Violations of rules established by any health agency;
- 7 (12) Practice beyond the scope of practice as defined by law or
8 rule;
- 9 (13) Misrepresentation or fraud in any aspect of the conduct of the
10 business or profession;
- 11 (14) Failure to adequately supervise auxiliary staff to the extent
12 that the consumer's health or safety is at risk;
- 13 (15) Engaging in a profession involving contact with the public
14 while suffering from a contagious or infectious disease involving
15 serious risk to public health;
- 16 (16) Promotion for personal gain of any unnecessary or
17 inefficacious drug, device, treatment, procedure, or service;
- 18 (17) Conviction of any gross misdemeanor or felony relating to the
19 practice of the person's profession. For the purposes of this
20 subsection, conviction includes all instances in which a plea of guilty
21 or nolo contendere is the basis for conviction and all proceedings in
22 which the sentence has been deferred or suspended. Nothing in this
23 section abrogates rights guaranteed under chapter 9.96A RCW;
- 24 (18) The procuring, or aiding or abetting in procuring, a criminal
25 abortion;
- 26 (19) The offering, undertaking, or agreeing to cure or treat
27 disease by a secret method, procedure, treatment, or medicine, or the
28 treating, operating, or prescribing for any health condition by a
29 method, means, or procedure which the licensee refuses to divulge upon
30 demand of the disciplining authority;
- 31 (20) The willful betrayal of a practitioner-patient privilege as
32 recognized by law;
- 33 (21) Violation of chapter 19.68 RCW;
- 34 (22) Interference with an investigation or disciplinary proceeding
35 by willful misrepresentation of facts before the disciplining authority
36 or its authorized representative, or by the use of threats or
37 harassment against any patient or witness to prevent them from
38 providing evidence in a disciplinary proceeding or any other legal
39 action, or by the use of financial inducements to any patient or

1 witness to prevent or attempt to prevent him or her from providing
2 evidence in a disciplinary proceeding;

3 (23) Current misuse of:

4 (a) Alcohol;

5 (b) Controlled substances; or

6 (c) Legend drugs;

7 (24) Abuse of a client or patient or sexual contact with a client
8 or patient. The legislature views with the greatest concern the
9 violation of professional relationships between patients or clients and
10 their health providers occasioned by acts of sexual abuse. The
11 disciplinary authorities should consider the surest sanctions
12 appropriate to their findings, within the proper regularities of due
13 process, in order to uphold standards of professional ethics expected
14 of license holders holding credentials of practice in this state; to
15 assure the integrity of professional relationships between patients or
16 clients with their health providers; and to deter reprehensible acts of
17 sexual abuse on the dignity and sensibilities of vulnerable patients or
18 clients;

19 (25) Acceptance of more than a nominal gratuity, hospitality, or
20 subsidy offered by a representative or vendor of medical or health-
21 related products or services intended for patients, in contemplation of
22 a sale or for use in research publishable in professional journals,
23 where a conflict of interest is presented, as defined by rules of the
24 disciplining authority, in consultation with the department, based on
25 recognized professional ethical standards.

--- END ---