

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1057

55th Legislature
1997 Regular Session

Passed by the House April 19, 1997
Yeas 89 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 8, 1997
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1057** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1057

Passed Legislature - 1997 Regular Session

AS AMENDED BY THE SENATE

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; adding a new section
3 to chapter 42.17 RCW; and adding a new section to chapter 18.130 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)(a) 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 or
13 pursuant to an interagency agreement as provided in (b) of this
14 subsection. Complaints determined to warrant no cause for action after
15 investigation are subject to public disclosure, must include an
16 explanation of the determination to close the complaint, and must
17 remain in the records and tracking system of the department.

18 (b) The secretary, on behalf of the disciplining authorities, shall
19 enter into interagency agreements for the exchange of records, which
20 may include complaints filed but not yet assessed, with other state
21 agencies if access to the records will assist those agencies in meeting
22 their federal or state statutory responsibilities. Records obtained by
23 state agencies under the interagency agreements are subject to the
24 limitations on disclosure contained in (a) of this subsection.

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

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

33 (b) From a witness or potential witness in an investigation under
34 this chapter, the investigator shall inform the person, in writing,
35 that the statement may be released to the licensee, applicant, or
36 unlicensed person under investigation if a statement of charges is
37 issued.

38 (3) Only upon the authorization of a disciplining authority
39 identified in RCW 18.130.040(2)(b), the secretary, or his or her

1 designee, may serve as the presiding officer for any disciplinary
2 proceedings of the disciplining authority authorized under this
3 chapter. Except as provided in RCW 18.130.050(8), the presiding
4 officer shall not vote on or make any final decision. All functions
5 performed by the presiding officer shall be subject to chapter 34.05
6 RCW. The secretary, in consultation with the disciplining authorities,
7 shall adopt procedures for implementing this subsection.

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

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

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

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.130 RCW
21 to read as follows:

22 This chapter does not affect the use of records, obtained from the
23 secretary or the disciplining authorities, in any existing
24 investigation or action by any state agency. Nor does this chapter
25 limit any existing exchange of information between the secretary or the
26 disciplining authorities and other state agencies.

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