
Health Care Committee

HB 2326

Brief Description: Streamlining the health care disciplinary process.

Sponsors: Representatives Campbell and Cody.

Brief Summary of Bill

- Shifts primary responsibilities of the health profession boards and commissions for investigations, summary suspensions, and charging decisions to the Secretary of Health.
- Establishes minimum sanctions to be applied to certain findings of unprofessional conduct.

Hearing Date: 1/13/04

Staff: Chris Blake (786-7392).

Background:

The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 57 categories of credentialed health care providers. The UDA defines acts of unprofessional conduct, establishes sanctions for such acts, and provides general procedures for addressing complaints and taking disciplinary actions against a credentialed health care provider. Responsibilities in the disciplinary process are divided between the Secretary of Health (Secretary) and the 16 health profession boards and commissions according to the profession that the health care provider is a member of and the relevant step in the disciplinary process.

After investigating a complaint or report of unprofessional conduct, the Secretary or the board or commission must decide what disciplinary action is warranted by the evidence. The case may be closed without further action, pursued through an informal action in the form of a statement of allegations, or pursued through a formal action in the form of a statement of charges.

Upon a finding of an act of unprofessional conduct, the Secretary or the board or commission decides which sanctions should be ordered. These sanctions include: revocation of a license, suspension of a license, restriction of the practice, mandatory remedial education or treatment, monitoring of the practice, censure or reprimand, conditions of probation, payment of a fine, denial of a license request, corrective action, refund of billings, and surrender of the license. In the selection of a sanction the first consideration is what is necessary to protect or compensate the public, and the second consideration is what may rehabilitate the license holder or applicant.

Summary of Bill:

The authority of the health professions boards and commissions to investigate allegations of unprofessional conduct, appoint members to direct investigations, and conduct practice reviews is reduced to a consultative and assisting role. The Secretary of Health (Secretary) is given independent authority to conduct investigations and practice reviews. Complaints and reports of unprofessional conduct are to be sent to the Secretary, rather than the boards and commissions. After the completion of an investigation, the Secretary is authorized to determine the appropriate disposition of the case. The authority of the health professions boards and commissions to order a summary suspension of a health care provider's license is transferred to the Secretary.

Upon a finding that a specified act of unprofessional conduct has occurred, certain minimum sanctions must be applied. These are:

- For a violation of prescribing practices or certain convictions related to the practice of the profession in question, a minimum six-month suspension of the license is imposed for the first finding and a minimum two-year suspension of the license is imposed for the second similar finding within 10 years.
- For acts of abuse of a patient or client or nonconsensual sexual contact with a patient or client, a minimum one-year suspension of the license is imposed for the first finding and a minimum three-year suspension of the license is imposed for the second similar finding within 10 years.
- Where death, severe injury, or a significant risk to the public results from (1) negligence, incompetence, or malpractice; (2) violation of laws regulating the profession in question; or (3) current substance abuse, a minimum two-year suspension of the license is imposed for the first finding and a minimum five-year suspension of the license is imposed for the second similar finding within 10 years.

Any combination of three findings of these violations within a 10-year period shall result in the revocation of the license. The Secretary or the board or commission may order stricter sanctions in addition to the required minimum sanctions.

A one-time finding of specified mitigating circumstance may be issued which could result in the stay of the minimum sanctions without counting toward the compounding effect of future findings. The mitigating circumstances may be issued when it is found that the procedure at issue was a high-risk procedure without any lower-risk alternatives, the patient was aware of the procedure's risks, and the health care provider took remedial steps prior to the disciplinary action; there is strong potential for rehabilitation of the license holder; and there is strong potential for remedial education and training to prevent future harm to the public.

Appropriation: None.

Fiscal Note: Requested on January 8, 2004.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.