

HOUSE BILL REPORT

SHB 2974

As Passed Legislature

Title: An act relating to health professions discipline.

Brief Description: Modifying provisions with respect to disciplining health professions.

Sponsors: By House Committee on Health Care (originally sponsored by Representatives Cody, Morrell and Moeller).

Brief History:

Committee Activity:

Health Care: 1/24/06, 1/31/06 [DPS].

Floor Activity:

Passed House: 2/8/06, 61-37.

Senate Amended.

Passed Senate: 3/3/06, 45-3.

House Concurred.

Passed House: 3/4/06, 65-30.

Passed Legislature.

Brief Summary of Substitute Bill

- Requires the Secretary of Health to adopt rules for all licensed health care providers to report unprofessional conduct.
- Prohibits health care providers who have had their licenses revoked in another state from practicing in Washington until disciplinary proceedings are complete.
- Requires the Department of Health to identify the number of additional investigators and attorneys necessary to respond to the health profession's disciplinary workload in biennial budget requests.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Cody, Chair; Campbell, Vice Chair; Morrell, Vice Chair; Appleton, Clibborn, Green, Lantz, Moeller and Schual-Berke.

Minority Report: Do not pass. Signed by 5 members: Representatives Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander, Bailey and Condotta.

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 (collectively known as "disciplining authorities") 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 appropriate disciplining authority must decide what disciplinary action is warranted by the evidence and the nature of the violation. 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. 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 Substitute Bill:

Reporting Requirements

The Secretary is required to establish rules for all license holders to report when another license holder has committed unprofessional conduct or may not be able to practice safely due to a mental or physical condition. The reporting requirement does not apply to peer review committees, quality improvement committees, and similar professional review committees while the matter is under investigation. In addition, impaired practitioner programs and voluntary substance abuse monitoring programs are not required to report unprofessional conduct where the license holder is currently enrolled in the program, is actively participating in the program, and does not pose a threat to the public.

License holders are required to report if they have been disqualified from participating in Medicare or Medicaid. The disciplining authority must initiate an investigation into every such disqualification.

Prosecuting attorneys must notify the Washington State Patrol of any guilty plea or conviction of certain felonies (homicide, assault, kidnapping, or sex offenses) and send the information to

the Department of Health (Department). The Department must identify any license holders on the list and forward the information to the appropriate disciplining authority.

License Suspension Authority

Individuals who have, or who apply for, a license or temporary practice permit and who are prohibited from practicing in another state, federal, or foreign jurisdiction due to the commission of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct in Washington are prohibited from practicing in Washington. The prohibition applies until the disciplining authority has completed summary suspension proceedings on the matter.

Where a license holder has committed unprofessional conduct as a result of substance abuse and he or she does not consent to referral to a substance abuse treatment program or does not successfully complete the program, his or her license must be suspended until the disciplining authority, in consultation with the director of the voluntary substance abuse monitoring program, has determined that he or she can practice safely.

Consideration of Prior Disciplinary Activities

When deciding whether or not to investigate a complaint, the disciplining authority must consider any prior complaints, findings of fact, stipulations to informal disposition, or actions taken by other state disciplining authorities.

Sanctioning Determinations

It is specified that, when making a determination of appropriate sanctions for a license holder, safeguarding the public's health and safety is the paramount responsibility of the disciplining authority.

Health Professions Account

In each of the next three biennial budget requests for appropriation of the Health Professions Account, the Department must specify the number of additional investigators and attorneys necessary to achieve a staffing level that can respond to the disciplinary workload promptly, competently, and comprehensively and the cost associated with supporting them. The Department must identify a formula for identifying such a staffing level based upon prior experience with staff levels compared to the number of providers, complaints, investigations, and other relevant factors. Each biennial budget request must specify the methodology used to determine the additional staffing level. The reporting requirements expire July 1, 2011.

The Joint Legislative Audit and Review Committee, in consultation with the Department, must report to the Legislature by December 1, 2010, with a recommended formula for determining disciplinary staffing levels.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 7 relating to impaired practitioner program, which takes effect July 1, 2006.

Testimony For: This bill advances patient safety. This bill is a good effort toward resolving some of the problems with the disciplinary system.

Testimony Against: There should not be a shift from the disciplining authority to the Secretary. Decisions affecting the profession should stay with the profession, not the Secretary.

Persons Testifying: (In support) Mary Selecky, Department of Health; Brad Tower, Optometric Physicians of Washington; and Linda Hull, Washington State Dental Association.

(Opposed) Tim Layton, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.