

SENATE BILL REPORT

SHB 2974

As Reported By Senate Committee On:
Health & Long-Term Care, February 23, 2006
Ways & Means, February 27, 2006

Title: An act relating to health professions discipline.

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

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

Brief History: Passed House: 2/08/06, 61-37.

Committee Activity: Health & Long-Term Care: 2/16/06, 2/23/06 [DPA-WM].
Ways & Means: 2/27/06 [DPA(HEA), w/oRec].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Thibaudeau, Vice Chair; Deccio, Ranking Minority Member; Benson, Brandland, Franklin, Kastama, Kline, Parlette and Poulsen.

Staff: Edith Rice (786-7444)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Health & Long-Term Care.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Doumit, Vice Chair, Operating Budget; Kohl-Welles, Pridemore, Rasmussen, Regala, Rockefeller and Thibaudeau.

Minority Report: That it be referred without recommendation.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Parlette, Pflug, Roach and Schoesler.

Staff: Tim Yowell (786-7435)

Background: The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 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 Amended 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.

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, sex offenses, burglary or trespass, theft or robbery, or fraud) 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.

It is clarified that an entity with a peer review or quality improvement committee is not required to report unprofessional conduct during the investigative phase of its operation, nor is an impaired practitioner program, as long as the license holder is actively participating in the program and the license holder's impairment does not constitute a clear and present danger to the public health, safety, or welfare.

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.

The Department of Health must receive notification of guilty pleas or convictions for any felony crime involving homicide, assault, kidnapping or sex offenses and provide this information to disciplining authorities.

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.

Amended Bill Compared to Original Bill: Exceptions for reporting of unprofessional conduct are added and the list of crimes which the Department of Health must report to the disciplining authority no longer includes burglary, trespass, theft, robbery or fraud.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For (Health & Long-Term Care): This bill will allow for greater consistency under the Secretary of Health. This bill should resolve legislative funding issues that have been a problem in the past. It emphasizes patient safety, which is the appropriate focus.

Testimony Against (Health & Long-Term Care): The changes in the summary suspension aspect of this bill cause us concern. The authority should be kept with the boards and commissions and not shifted to the Secretary.

Who Testified (Health & Long-Term Care): PRO: Representative Cody, prime sponsor; Mary Selecky, Secretary of the Department of Health.

CON: Melanie Stewart, Washington Podiatric Association; Tim Layton, Washington Medical Association.

Testimony For (Ways & Means): None.

Testimony Against (Ways & Means): None.

Who Testified (Ways & Means): No one.