
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1071

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Campbell and Morrell)

READ FIRST TIME 03/09/05.

1 AN ACT Relating to the uniform disciplinary act for health
2 professions; amending RCW 18.130.050, 18.130.060, and 18.130.160;
3 adding a new section to chapter 18.130 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The uniform disciplinary act provides a
6 consistent process for addressing acts of unprofessional conduct
7 affecting fifty-nine health professions regulated by the state. The
8 disciplinary authorities include the secretary of health and sixteen
9 boards and commissions charged with protecting the health and safety of
10 patients from unprofessional conduct. It is recognized nationally as
11 a model law and has worked well over time to provide uniformity and
12 efficiency to the disciplinary process.

13 The legislature finds that there may be methods for increasing the
14 efficiency and effectiveness of this model through the redistribution
15 of duties between the secretary of health and the health profession
16 boards and commissions. In addition, there is an opportunity to
17 achieve greater consistency in the sanctions imposed across the health
18 professions through specifically identified sanctions for specific acts

1 of unprofessional conduct. A more consistent application of sanctions
2 across professions protects both the safety of the public and the due
3 process rights of all health care professionals.

4 NEW SECTION. **Sec. 2.** The secretary of health shall establish a
5 work group to review the complaint processing and sanction
6 determination phases of the health professions disciplinary process.
7 At the secretary of health's discretion, the work group may include
8 representatives of different health profession boards and commissions,
9 professional associations, and other interested parties. The work
10 group shall submit a report to the legislature by December 1, 2005,
11 with recommendations for creating:

12 (1) Greater efficiencies between the health professions boards and
13 commissions and the secretary of health in processing complaints
14 against license holders; and

15 (2) More consistent sanction determinations that balance the
16 protection of the public's health and the rights of health care
17 providers among the different health professions, including
18 recommendations for specific ranges of sanctions for each act of
19 unprofessional conduct and the effect of any aggravating and mitigating
20 factors that may apply to each.

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

23 The secretary, with the advice and consultation of the other
24 disciplining authorities, shall adopt a schedule that defines
25 appropriate ranges of sanctions that are applicable to a finding after
26 a hearing that a license holder has committed unprofessional conduct as
27 defined in this chapter or the chapters specified in RCW 18.130.040(2).
28 The schedule must identify aggravating and mitigating circumstances
29 that may enhance or reduce the sanction imposed by the disciplining
30 authority for each act of unprofessional conduct. The schedule must
31 apply to all disciplining authorities. In addition, the secretary
32 shall make provisions for instances in which there are multiple
33 findings of unprofessional conduct. When establishing the schedule,
34 the secretary shall consider maintaining consistent sanction
35 determinations that balance the protection of the public's health and

1 the rights of health care providers of the different health
2 professions.

3 **Sec. 4.** RCW 18.130.050 and 1995 c 336 s 4 are each amended to read
4 as follows:

5 The disciplining authority has the following authority:

6 (1) To adopt, amend, and rescind such rules as are deemed necessary
7 to carry out this chapter;

8 (2) To investigate all complaints or reports of unprofessional
9 conduct as defined in this chapter and to hold hearings as provided in
10 this chapter;

11 (3) To issue subpoenas and administer oaths in connection with any
12 investigation, hearing, or proceeding held under this chapter;

13 (4) To take or cause depositions to be taken and use other
14 discovery procedures as needed in any investigation, hearing, or
15 proceeding held under this chapter;

16 (5) To compel attendance of witnesses at hearings;

17 (6) In the course of investigating a complaint or report of
18 unprofessional conduct, to conduct practice reviews;

19 ~~(7) ((To take emergency action ordering summary suspension of a
20 license, or restriction or limitation of the licensee's practice
21 pending proceedings by the disciplining authority;~~

22 ~~(8))~~ To use a presiding officer as authorized in RCW 18.130.095(3)
23 or the office of administrative hearings as authorized in chapter 34.12
24 RCW to conduct hearings. The disciplining authority shall make the
25 final decision regarding disposition of the license unless the
26 disciplining authority elects to delegate in writing the final decision
27 to the presiding officer;

28 ~~((9))~~ (8) To use individual members of the boards to direct
29 investigations. However, the member of the board shall not
30 subsequently participate in the hearing of the case;

31 ~~((10))~~ (9) To enter into contracts for professional services
32 determined to be necessary for adequate enforcement of this chapter;

33 ~~((11))~~ (10) To contract with licensees or other persons or
34 organizations to provide services necessary for the monitoring and
35 supervision of licensees who are placed on probation, whose
36 professional activities are restricted, or who are for any authorized
37 purpose subject to monitoring by the disciplining authority;

1 ~~((12))~~ (11) To adopt standards of professional conduct or
2 practice;

3 ~~((13))~~ (12) To grant or deny license applications, and in the
4 event of a finding of unprofessional conduct by an applicant or license
5 holder, to impose any sanction consistent with section 3 of this act
6 against a license applicant or license holder provided by this chapter;

7 ~~((14))~~ (13) To designate individuals authorized to sign subpoenas
8 and statements of charges;

9 ~~((15))~~ (14) To establish panels consisting of three or more
10 members of the board to perform any duty or authority within the
11 board's jurisdiction under this chapter;

12 ~~((16))~~ (15) To review and audit the records of licensed health
13 facilities' or services' quality assurance committee decisions in which
14 a licensee's practice privilege or employment is terminated or
15 restricted. Each health facility or service shall produce and make
16 accessible to the disciplining authority the appropriate records and
17 otherwise facilitate the review and audit. Information so gained shall
18 not be subject to discovery or introduction into evidence in any civil
19 action pursuant to RCW 70.41.200(3).

20 **Sec. 5.** RCW 18.130.060 and 2001 c 101 s 1 are each amended to read
21 as follows:

22 In addition to the authority specified in RCW 18.130.050, the
23 secretary has the following additional authority:

24 (1) To employ such investigative, administrative, and clerical
25 staff as necessary for the enforcement of this chapter;

26 (2) Upon the request of a board, to appoint pro tem members to
27 participate as members of a panel of the board in connection with
28 proceedings specifically identified in the request. Individuals so
29 appointed must meet the same minimum qualifications as regular members
30 of the board. Pro tem members appointed for matters under this chapter
31 are appointed for a term of no more than one year. No pro tem member
32 may serve more than four one-year terms. While serving as board
33 members pro tem, persons so appointed have all the powers, duties, and
34 immunities, and are entitled to the emoluments, including travel
35 expenses in accordance with RCW 43.03.050 and 43.03.060, of regular
36 members of the board. The chairperson of a panel shall be a regular
37 member of the board appointed by the board chairperson. Panels have

1 authority to act as directed by the board with respect to all matters
2 concerning the review, investigation, and adjudication of all
3 complaints, allegations, charges, and matters subject to the
4 jurisdiction of the board. The authority to act through panels does
5 not restrict the authority of the board to act as a single body at any
6 phase of proceedings within the board's jurisdiction. Board panels may
7 make interim orders and issue final decisions with respect to matters
8 and cases delegated to the panel by the board. Final decisions may be
9 appealed as provided in chapter 34.05 RCW, the Administrative Procedure
10 Act;

11 (3) To establish fees to be paid for witnesses, expert witnesses,
12 and consultants used in any investigation and to establish fees to
13 witnesses in any agency adjudicative proceeding as authorized by RCW
14 34.05.446;

15 (4) To conduct investigations and practice reviews at the direction
16 of the disciplining authority and to issue subpoenas, administer oaths,
17 and take depositions in the course of conducting those investigations
18 and practice reviews at the direction of the disciplining authority;

19 (5) To take emergency action ordering summary suspension of a
20 license, or restriction or limitation of the license holder's practice
21 pending proceedings by the disciplining authority;

22 (6) To have the health professions regulatory program establish a
23 system to recruit potential public members, to review the
24 qualifications of such potential members, and to provide orientation to
25 those public members appointed pursuant to law by the governor or the
26 secretary to the boards and commissions specified in RCW
27 18.130.040(2)(b), and to the advisory committees and councils for
28 professions specified in RCW 18.130.040(2)(a).

29 **Sec. 6.** RCW 18.130.160 and 2001 c 195 s 1 are each amended to read
30 as follows:

31 Upon a finding, after hearing, that a license holder or applicant
32 has committed unprofessional conduct or is unable to practice with
33 reasonable skill and safety due to a physical or mental condition, the
34 disciplining authority may issue an order providing for one or any
35 combination of the following, in accordance with the schedule adopted
36 by the secretary in section 3 of this act:

37 (1) Revocation of the license;

- 1 (2) Suspension of the license for a fixed or indefinite term;
- 2 (3) Restriction or limitation of the practice;
- 3 (4) Requiring the satisfactory completion of a specific program of
- 4 remedial education or treatment;
- 5 (5) The monitoring of the practice by a supervisor approved by the
- 6 disciplining authority;
- 7 (6) Censure or reprimand;
- 8 (7) Compliance with conditions of probation for a designated period
- 9 of time;
- 10 (8) Payment of a fine for each violation of this chapter, not to
- 11 exceed five thousand dollars per violation. Funds received shall be
- 12 placed in the health professions account;
- 13 (9) Denial of the license request;
- 14 (10) Corrective action;
- 15 (11) Refund of fees billed to and collected from the consumer;
- 16 (12) A surrender of the practitioner's license in lieu of other
- 17 sanctions, which must be reported to the federal data bank.

18 Any of the actions under this section may be totally or partly
19 stayed by the disciplining authority. In determining what action is
20 appropriate, the disciplining authority must consider the schedule
21 adopted by the secretary in section 3 of this act. Where the schedule
22 allows flexibility in determining the appropriate sanction, the
23 disciplining authority must first consider what sanctions are necessary
24 to protect or compensate the public. Only after such provisions have
25 been made may the disciplining authority consider and include in the
26 order requirements designed to rehabilitate the license holder or
27 applicant. All costs associated with compliance with orders issued
28 under this section are the obligation of the license holder or
29 applicant.

30 The licensee or applicant may enter into a stipulated disposition
31 of charges that includes one or more of the sanctions of this section,
32 but only after a statement of charges has been issued and the licensee
33 has been afforded the opportunity for a hearing and has elected on the
34 record to forego such a hearing. The stipulation shall either contain
35 one or more specific findings of unprofessional conduct or inability to
36 practice, or a statement by the licensee acknowledging that evidence is
37 sufficient to justify one or more specified findings of unprofessional

1 conduct or inability to practice. The stipulation entered into
2 pursuant to this subsection shall be considered formal disciplinary
3 action for all purposes.

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