
HOUSE BILL 1781

State of Washington 59th Legislature 2005 Regular Session

By Representatives Schual-Berke, Morrell and Green

Read first time 02/04/2005. Referred to Committee on Health Care.

1 AN ACT Relating to alternative disciplinary process for physicians
2 and physician assistants; amending RCW 18.130.090; adding new sections
3 to chapter 18.130 RCW; creating new sections; and providing an
4 effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that professional
7 discipline is a critical function of ensuring quality health care for
8 the people of the state of Washington, and that an alternative
9 disciplinary process for some professions will strengthen that process.

10 **Sec. 2.** RCW 18.130.090 and 1993 c 367 s 1 are each amended to read
11 as follows:

12 (1) If the disciplining authority determines, upon investigation,
13 that there is reason to believe a violation of RCW 18.130.180 has
14 occurred, a statement of charge or charges shall be prepared and served
15 upon the license holder or applicant at the earliest practical time.
16 The statement of charge or charges shall be accompanied by a notice
17 that the license holder or applicant may request a hearing to contest
18 the charge or charges.

1 (2) For license holders and applicants under chapter 18.71 or
2 18.71A RCW, the disciplining authority shall file the statement of
3 charges with the superior court in the county in which the license
4 holder provided the care or committed the act that is the subject of
5 the complaint. The license holder or applicant must file a request for
6 hearing with the superior court in which the statement of charges has
7 been filed within twenty days after being served the statement of
8 charges. If the twenty-day limit results in a hardship upon the
9 license holder or applicant, he or she may request for good cause an
10 extension not to exceed sixty additional days. If the superior court
11 finds that there is good cause, it shall grant the extension. The
12 failure to request a hearing constitutes a default, whereupon the
13 superior court may enter a decision on the basis of the facts available
14 to it. If a hearing is requested, the hearing shall be held pursuant
15 to section 4 of this act.

16 (3) For license holders and applicants not covered by subsection
17 (2) of this section, the license holder or applicant must file a
18 request for hearing with the disciplining authority within twenty days
19 after being served the statement of charges. If the twenty-day limit
20 results in a hardship upon the license holder or applicant, he or she
21 may request for good cause an extension not to exceed sixty additional
22 days. If the disciplining authority finds that there is good cause, it
23 shall grant the extension. The failure to request a hearing
24 constitutes a default, whereupon the disciplining authority may enter
25 a decision on the basis of the facts available to it.

26 ~~((+2))~~ If a hearing is requested, the time of the hearing shall be
27 fixed by the disciplining authority as soon as convenient, but the
28 hearing shall not be held earlier than thirty days after service of the
29 charges upon the license holder or applicant.

30 NEW SECTION. Sec. 3. A new section is added to chapter 18.130 RCW
31 to read as follows:

32 (1) A complainant dissatisfied with the decision of the
33 disciplining authority regarding a license holder or applicant under
34 chapter 18.71 or 18.71A RCW may appeal that decision to the prosecuting
35 attorney in the county in which the license holder provided the care or
36 committed the act that is the subject of the complaint. If the
37 prosecuting attorney determines, upon investigation, that there is

1 reason to believe a violation of RCW 18.130.180 has occurred, a
2 statement of charge or charges shall be prepared and served upon the
3 license holder or applicant at the earliest practical time. The
4 statement of charge or charges shall be accompanied by a notice that
5 the license holder or applicant may request a hearing to contest the
6 charge or charges. The decision of the prosecuting attorney as to
7 filing charges is final and may not be appealed by the complainant or
8 disciplining authority in any forum.

9 (2) The prosecuting attorney shall file the statement of charges
10 with the superior court. The license holder or applicant must file a
11 request for hearing with the superior court in which the statement of
12 charges has been filed within twenty days after being served the
13 statement of charges. If the twenty-day limit results in a hardship
14 upon the license holder or applicant, he or she may request for good
15 cause an extension not to exceed sixty additional days. If the
16 superior court finds that there is good cause, it shall grant the
17 extension. The failure to request a hearing constitutes a default,
18 whereupon the superior court may enter a decision on the basis of the
19 facts available to it. If a hearing is requested, the hearing shall be
20 held pursuant to section 4 of this act.

21 (3) If the prosecuting attorney files a statement of charges, he or
22 she shall also serve as the disciplining authority as to the settlement
23 function in RCW 18.130.098. All settlements are subject to the
24 approval of the superior court in which the statement of charges was
25 filed pursuant to this section or RCW 18.130.090.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.130 RCW
27 to read as follows:

28 (1) If a disciplinary authority under RCW 18.130.090 or a
29 prosecuting attorney under section 3 of this act files a statement of
30 charges in superior court, the superior court shall serve as the
31 disciplinary authority for purposes of RCW 18.130.160 and shall serve
32 as the hearing authority for purposes of RCW 18.130.170(1).

33 (2) The superior court shall hold hearings requested under RCW
34 18.130.090 or section 3 of this act in accordance with the civil and
35 related rules of the superior courts.

36 (3) The superior court shall grant an expedited hearing upon a
37 petition filed by:

1 (a) The disciplinary authority or county prosecutor on the grounds
2 of jeopardy to the health and safety of patients caused by delay; or

3 (b) The license holder on the grounds of undue prejudice caused by
4 delay.

5 (4) Appeals from the decision of the superior court are governed by
6 the court rules governing appeals in civil matters from the superior
7 courts.

8 NEW SECTION. **Sec. 5.** The supreme court may implement this act
9 through court rule.

10 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2006.

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