

HOUSE BILL REPORT

HB 1300

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to health professions administrative penalties.

Brief Description: Modifying the powers and duties of health care disciplining authorities.

Sponsors: Representatives Morrell, Campbell, Cody, Curtis, Schual-Berke, Green and Moeller;
by request of Department of Health.

Brief History:

Committee Activity:

Health Care & Wellness: 1/22/07, 1/29/07 [DPS].

Brief Summary of Substitute Bill

- Establishes specific circumstances in which a disciplining authority may deny an application for a health care provider credential or issue the credential subject to conditions.
- Establishes penalties for credentialed health care providers who fail to submit documents and records upon request of a disciplining authority.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Cody, Chair; Morrell, Vice Chair; Hinkle, Ranking Minority Member; Alexander, Assistant Ranking Minority Member; Barlow, Campbell, Condotta, Curtis, Green, Moeller, Pedersen, Schual-Berke and Seaquist.

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

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and taking disciplinary actions against a credentialed health care provider. Responsibilities in the disciplinary process are divided between the Secretary of the Department of Health (Department) and the 14 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.

Individuals who have been convicted of a felony may not be disqualified from government employment or the practice of a profession or business that requires a license, solely because of the prior conviction. There is an exception for situations in which the conviction is directly related to the employment or the profession or business at issue and less than ten years has passed.

Defendants who have completed their probation may have their records of convictions vacated and be released of any penalties and disabilities that arose from the conviction. In addition, the conviction is prohibited from being disseminated or disclosed by either the Washington State Patrol or local law enforcement agencies.

Summary of Substitute Bill:

The circumstances for which a disciplining authority may deny an application for a health care provider credential or issue the credential with conditions are specified. These circumstances are where the applicant:

- has had his or her credential suspended by another jurisdiction;
- has committed an act of unprofessional conduct;
- has been convicted of, or is pending prosecution for, a crime involving moral turpitude or a crime against children or other persons, a crime relating to drugs, or a crime relating to financial exploitation;
- fails to prove that he or she meets the qualifications related to the profession; or
- cannot practice with reasonable skill and safety by reason of a mental or physical condition.

When determining the disposition of an application in which the applicant's mental or physical condition is at issue, the disciplining authority may require the applicant to submit to a mental or physical examination at his or her expense. If the applicant does not submit to an examination, the disciplining authority may deny the application. An applicant is deemed to have waived all objections to the admissibility of the testimony or reports of the health care provider who performed the physical, mental, or psychological examination.

Credentialed health care providers are required to produce any documents, records, or other items within their possession or control within 21 business days of a request by a disciplining authority. If a health care provider fails to produce the materials or obtain an extension, the disciplining authority may issue a citation and assess a maximum fine of \$100 for each day that the materials are not produced. The total fine imposed may not exceed \$5,000. The citation must contain specific provisions, including notification to the health care provider that he or she may request a hearing within 20 days of the issuance of the citation.

A credentialed health care provider who has surrendered his or her credential or had it revoked must wait at least five years before petitioning the disciplining authority for reinstatement. The exemption for defendants who have completed their probation to have the records of their convictions vacated and the disclosure of that conviction not be distributed by the Washington State Patrol or local law enforcement agencies does not apply to the Uniform Disciplinary Act. Health care provider credentials are exempt from protections that prevent a person from being disqualified to practice a profession for no more than ten years when he or she has a prior felony conviction.

Substitute Bill Compared to Original Bill:

The substitute bill requires the Department to inform an applicant who is ordered to have a physical or mental examination of the conduct that justifies the exam and the purpose and scope of the examination.

The maximum daily fines for not producing materials requested by the Department are reduced from \$500 per day to \$100. Total fines may not exceed \$5,000. Disciplining authorities must regularly review maximum fines. Health care providers who are requested to produce materials are not required to produce materials that are not within their possession or control.

The prohibition on petitioning for reinstatement after revocation is reduced to a minimum five-year waiting period.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill will help the Department obtain the information that it needs for investigations. Applicants are given the burden to demonstrate that they meet the minimum qualifications for a license while their right to appeal a denial is still maintained. There are some acts of unprofessional conduct that are so egregious that a health care provider will always present a serious risk to the public and should not have a health care credential. This bill will help to obtain records earlier in the disciplinary process and provide for a faster disciplinary process.

(Concerns) There should be a basis for the grounds requiring a physical or mental examination and the results should be not subject to public disclosure. There should be a mechanism for requesting an extension. The fine is high and should stop while a case is being appealed. There should be some opportunity for people to be reinstated in certain cases. The 21 days should be business days and there should be documentation that a letter requesting materials

was sent. The fines for failure to produce documents should be graduated. Some health care providers do not have control over the documents that the Department may be requesting.

(Opposed) None.

Persons Testifying: (In support) Representative Morrell, prime sponsor; and Laurie Jinkins, Department of Health.

(Concerns) Tim Layton, Washington State Medical Association; Gail McGaffick, Washington Podiatric Medical Association; Melanie Stewart, Washington Chapter of America Massage Therapy Association; Lucy Homans, Washington State Psychological Association; and Anne Tan Piazza and Tim Sears, Washington State Nurses Association.

Persons Signed In To Testify But Not Testifying: None.