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## Judiciary Committee

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### HB 1967

**Title:** An act relating to the reporting of physician convictions for driving while under the influence to an approved substance abuse program.

**Brief Description:** Providing for the reporting of physician convictions for driving while under the influence to an approved substance abuse program.

**Sponsors:** Representatives Moeller, Skinner, Cody, Williams, Barlow, Rodne, Condotta and Campbell.

#### Brief Summary of Bill

- Requires the Medical Quality Assurance Commission, upon determining that a person convicted of DUI is a physician, to refer the person to a voluntary substance abuse program for physicians.
- Provides that a physician convicted of DUI who fulfills the requirements of the substance abuse program shall not be subject to disciplinary action by the Commission for his or her substance abuse.

**Hearing Date:** 2/14/07

**Staff:** Trudes Tango (786-7384).

#### Background:

The responsibility of disciplining health care providers is divided between the Secretary of Health and various health profession boards and commissions (collectively known as "disciplining authorities") according to the profession that the provider is a member of and the relevant step in the disciplinary process.

The Medical Quality Assurance Commission (Commission) is responsible for disciplining licensed physicians. The Commission may impose various sanctions on physicians who have committed unprofessional conduct or are unable to practice with reasonable skill and safety due to a physical or mental condition. Sanctions may include, for example, payment of a fine, being

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placed on probation subject to conditions, requiring completion of a specific program or treatment, and suspension or revocation of the person's medical license.

Some of the acts that constitute unprofessional conduct are: (a) acts involving moral turpitude relating to the practice of the person's profession; (b) failure to comply with an order issued by the Commission; (c) conviction of a gross misdemeanor or felony related to the practice of the person's profession; and (d) current misuse of alcohol, controlled substances, or legend drugs.

The Commission contracts with certain entities to provide programs for physicians with substance abuse issues. The Voluntary Substance Abuse Monitoring Program provides evaluation, treatment, intervention, and education of physicians who have committed unprofessional conduct due to substance abuse.

In lieu of disciplinary action, the Commission may refer a physician who has committed unprofessional conduct to the voluntary monitoring program if the Commission determines that the conduct may be the result of substance abuse. The voluntary monitoring program can include probationary conditions, treatment, and other requirements. The physician must agree to the referral and must satisfy all requirements of the program to avoid sanctions.

Even if there is no finding of unprofessional conduct, if the Commission has reasonable cause to believe that a physician is impaired, the Commission must order the physician to be evaluated to determine if there is an impairment. A physician is considered impaired if he or she is unable to practice medicine with reasonable skill and safety due to a physical or mental illness, which can include alcohol abuse, drug abuse, alcoholism, drug addiction, or other debilitating conditions.

Physicians may refer themselves to the voluntary substance abuse monitoring program, whether or not there has been any disciplinary action against them. Self-referred physicians are not subject to disciplinary action for their substance abuse and their participation in the program shall not be made known to the Commission if they satisfy all the requirements of the program.

A person commits driving under the influence of intoxicating liquor or any drug (DUI) if he or she: (a) has, within two hours after driving, a blood alcohol concentration of .08 or higher; or (b) drives while under the influence of or is affected by alcohol or any drug. A DUI conviction carries certain penalties, including the suspension of the person's driver's license for a specified period of time. The court must forward DUI conviction information to the Department of Licensing (DOL).

### **Summary of Bill:**

When the DOL receives notice that a person has pleaded guilty or been convicted DUI, the DOL must transmit that information to the Commission. The Commission must determine if the person is a licensed physician, and if so, refer the person to a voluntary substance abuse monitoring program for physicians. When the court imposes a criminal sentence on a physician convicted of DUI, the court, as part of the alcohol assessment and treatment requirement, must refer the physician to a substance abuse program approved by the Commission.

A physician referred to a voluntary substance abuse monitoring program by the court or Commission shall not be subject to disciplinary action for the substance abuse and shall not have his or her participation made known to the disciplining authority if the person meets the requirements of the program.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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