
HOUSE BILL 1104

State of Washington

60th Legislature

2007 Regular Session

By Representatives Campbell, Green, Morrell, Cody, Hudgins, Moeller and Wallace

Read first time 01/10/2007. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to unprofessional conduct by health care providers;
2 amending RCW 18.130.172; reenacting and amending RCW 18.130.160; adding
3 a new section to chapter 18.130 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 18.130.160 and 2006 c 99 s 6 and 2006 c 8 s 104 are
6 each reenacted and amended to read as follows:

7 Upon a finding, after hearing, that a license holder or applicant
8 has committed unprofessional conduct or is unable to practice with
9 reasonable skill and safety due to a physical or mental condition, the
10 disciplining authority may consider the imposition of sanctions, taking
11 into account any prior findings of fact under RCW 18.130.110, any
12 stipulations to informal disposition under RCW 18.130.172, and any
13 action taken by other in-state or out-of-state disciplining
14 authorities, and issue an order providing for one or any combination of
15 the following:

- 16 (1) Revocation of the license;
17 (2) Suspension of the license for a fixed or indefinite term;
18 (3) Restriction or limitation of the practice;

1 (4) Requiring the satisfactory completion of a specific program of
2 remedial education or treatment;

3 (5) The monitoring of the practice by a supervisor approved by the
4 disciplining authority;

5 (6) Censure or reprimand;

6 (7) Compliance with conditions of probation for a designated period
7 of time;

8 (8) Payment of a fine for each violation of this chapter, not to
9 exceed five thousand dollars per violation. Funds received shall be
10 placed in the health professions account;

11 (9) Denial of the license request;

12 (10) Corrective action;

13 (11) Refund of fees billed to and collected from the consumer;

14 (12) A surrender of the practitioner's license in lieu of other
15 sanctions, which must be reported to the federal data bank.

16 Except as provided in section 3 of this act, any of the actions
17 under this section may be totally or partly stayed by the disciplining
18 authority. Safeguarding the public's health and safety is the
19 paramount responsibility of every disciplining authority and in
20 determining what action is appropriate, the disciplining authority must
21 first consider what sanctions are necessary to protect or compensate
22 the public. Only after such provisions have been made may the
23 disciplining authority consider and include in the order requirements
24 designed to rehabilitate the license holder or applicant. All costs
25 associated with compliance with orders issued under this section are
26 the obligation of the license holder or applicant.

27 The ((licensee)) license holder or applicant may enter into a
28 stipulated disposition of charges that includes one or more of the
29 sanctions of this section, but only after a statement of charges has
30 been issued and the ((licensee)) license holder has been afforded the
31 opportunity for a hearing and has elected on the record to forego such
32 a hearing. The stipulation shall either contain one or more specific
33 findings of unprofessional conduct or inability to practice, or a
34 statement by the ((licensee)) license holder acknowledging that
35 evidence is sufficient to justify one or more specified findings of
36 unprofessional conduct or inability to practice. The stipulation
37 entered into pursuant to this subsection shall be considered formal
38 disciplinary action for all purposes.

1 **Sec. 2.** RCW 18.130.172 and 2000 c 171 s 29 are each amended to
2 read as follows:

3 (1) Except for those acts of unprofessional conduct specified in
4 section 3 of this act, prior to serving a statement of charges under
5 RCW 18.130.090 or 18.130.170, the disciplinary authority may furnish a
6 statement of allegations to the licensee or applicant along with a
7 detailed summary of the evidence relied upon to establish the
8 allegations and a proposed stipulation for informal resolution of the
9 allegations. These documents shall be exempt from public disclosure
10 until such time as the allegations are resolved either by stipulation
11 or otherwise.

12 (2) The disciplinary authority and the applicant or licensee may
13 stipulate that the allegations may be disposed of informally in
14 accordance with this subsection. The stipulation shall contain a
15 statement of the facts leading to the filing of the complaint; the act
16 or acts of unprofessional conduct alleged to have been committed or the
17 alleged basis for determining that the applicant or licensee is unable
18 to practice with reasonable skill and safety; a statement that the
19 stipulation is not to be construed as a finding of either
20 unprofessional conduct or inability to practice; an acknowledgement
21 that a finding of unprofessional conduct or inability to practice, if
22 proven, constitutes grounds for discipline under this chapter; and an
23 agreement on the part of the licensee or applicant that the sanctions
24 set forth in RCW 18.130.160, except RCW 18.130.160 (1), (2), (6), and
25 (8), may be imposed as part of the stipulation, except that no fine may
26 be imposed but the licensee or applicant may agree to reimburse the
27 disciplinary authority the costs of investigation and processing the
28 complaint up to an amount not exceeding one thousand dollars per
29 allegation; and an agreement on the part of the disciplinary authority
30 to forego further disciplinary proceedings concerning the allegations.
31 A stipulation entered into pursuant to this subsection shall not be
32 considered formal disciplinary action.

33 (3) If the licensee or applicant declines to agree to disposition
34 of the charges by means of a stipulation pursuant to subsection (2) of
35 this section, the disciplinary authority may proceed to formal
36 disciplinary action pursuant to RCW 18.130.090 or 18.130.170.

37 (4) Upon execution of a stipulation under subsection (2) of this
38 section by both the licensee or applicant and the disciplinary

1 authority, the complaint is deemed disposed of and shall become subject
2 to public disclosure on the same basis and to the same extent as other
3 records of the disciplinary authority. Should the licensee or
4 applicant fail to pay any agreed reimbursement within thirty days of
5 the date specified in the stipulation for payment, the disciplinary
6 authority may seek collection of the amount agreed to be paid in the
7 same manner as enforcement of a fine under RCW 18.130.165.

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

10 (1) The disciplining authority shall revoke the license of a
11 license holder who is found, in three unrelated orders under RCW
12 18.130.110 in a ten-year period, to have engaged in three separate
13 courses of unprofessional conduct based upon any combination of the
14 following:

15 (a) Any violation of RCW 18.130.180(4) that causes or substantially
16 contributes to the death of or severe injury to a patient or creates a
17 significant risk of harm to the public;

18 (b) Any violation of RCW 18.130.180(6) that creates a significant
19 risk of harm to the public;

20 (c) Any violation of RCW 18.130.180(7) that causes or substantially
21 contributes to the death of or severe injury to a patient or creates a
22 significant risk of harm to the public;

23 (d) Any violation of RCW 18.130.180(9);

24 (e) Any violation of RCW 18.130.180(17), except gross misdemeanors;

25 (f) Any violation of RCW 18.130.180(23) that causes or
26 substantially contributes to the death of or severe injury to a patient
27 or creates a significant risk of harm to the public;

28 (g) Any violation of RCW 18.130.180(24) based upon an act of abuse
29 to a client or patient; and

30 (h) Any violation of RCW 18.130.180(24) based upon sexual contact
31 with a client or patient.

32 (2) For the purposes of subsection (1) of this section, a ten-year
33 period commences upon the completion of all conditions and obligations
34 imposed for the acts identified in subsection (1)(a) through (h) of
35 this section.

36 (3) An order that includes a finding of mitigating circumstances
37 for an act of unprofessional conduct may be issued and, except for (a)

1 of this subsection, applied one time for any license holder or
2 applicant for a license and, if so, that order does not count as one of
3 the three orders that triggers a license revocation for purposes of
4 this section. A finding of mitigating circumstances under (a) of this
5 subsection may be issued and applied as many times as the license
6 holder meets the criteria for such a finding and does not count as one
7 of the three orders that triggers the revocation of a license for the
8 purposes of this section. Except for (a) of this subsection, after a
9 finding of mitigating circumstances is issued and applied, no
10 subsequent orders under this section may consider any mitigating
11 circumstances. The following mitigating circumstances may be
12 considered:

13 (a) For subsection (1)(a) of this section, the act involved a high-
14 risk procedure, there was no lower-risk alternative to that procedure,
15 the patient was informed of the risks of the procedure and consented to
16 the procedure anyway, and prior to the institution of disciplinary
17 actions the license holder took appropriate remedial measures;

18 (b) There is a strong potential for rehabilitation of the license
19 holder; or

20 (c) There is a strong potential for remedial education and training
21 to prevent future harm to the public.

22 (4) Nothing in this section limits the ability of the disciplining
23 authority to impose any sanction, including revocation, for a single
24 violation of any subsection of RCW 18.130.180.

25 (5) Notwithstanding RCW 9.96A.020(1), revocation of a license under
26 this section is not subject to a petition for reinstatement under RCW
27 18.130.150.

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