

SENATE BILL REPORT

SHB 1493

As Reported by Senate Committee On:
Health & Long-Term Care, March 23, 2011

Title: An act relating to providing greater transparency to the health professions disciplinary process.

Brief Description: Providing greater transparency to the health professions disciplinary process.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Pedersen, Bailey, Kagi, Clibborn, Ryu, Jinkins, Hinkle, Moeller, Van De Wege, Roberts, Stanford and Kenney).

Brief History: Passed House: 3/01/11, 68-29.

Committee Activity: Health & Long-Term Care: 3/17/11, 3/23/11 [DPA, w/oRec].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass as amended.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline, Murray and Pridemore.

Minority Report: That it be referred without recommendation.

Signed by Senators Becker, Ranking Minority Member; Carrell, Parlette and Pflug.

Staff: Kathleen Buchli (786-7488)

Background: Credentialed health care providers are subject to professional discipline under the Uniform Disciplinary Act (UDA). Under the UDA, the disciplining authority may take action against a provider for a variety of reasons, including unprofessional conduct, unlicensed practice, and the mental or physical inability to practice skillfully or safely. The Department of Health (DOH) is the disciplining authority for many providers, and various boards and commissions are the disciplining authority for the remainder. The UDA allows (and in some cases requires) individuals and organizations to file reports or complaints about health care providers. Once a disciplining authority receives a complaint, it makes a threshold determination as to whether the conduct in the complaint constitutes a violation of the law and whether the disciplining authority has the legal authority to take action. If a complaint does not meet this threshold, it is closed. If it does, the disciplining authority conducts an investigation. After the investigation, if the evidence supports the complaint, the disciplining authority may institute disciplinary proceedings against the provider.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Disciplinary proceedings may be resolved in a variety of ways, including a formal hearing (pursuant to the Administrative Procedures Act) or a stipulated agreement.

A complaint submitted to a disciplining authority is exempt from public disclosure until a determination of whether to investigate is made. Complaints determined to warrant no cause of action after an investigation must include an explanation of the decision to close the complaint. Disciplinary files are generally open to public inspection and copying, except for certain information such as patient information and the name, address, and Social Security Number of the provider.

A disciplining authority must provide notification to a complainant in several stages of a disciplinary proceeding. For example, the disciplining authority must provide a complainant with notice as soon as the initial assessment of the complaint is complete. Also, the disciplining authority must report the issuance of statements of charges and final orders to the complainant.

Summary of Bill (Recommended Amendments): A disciplining authority must provide a complainant with a reasonable opportunity to supplement or amend the contents of the complaint, provide the license holder an opportunity to respond to the complaint, promptly respond to inquiries made by the license holder or the complainant regarding the status of the complaint, and inform the complainant and the license holder of the final disposition of the complaint. At the request of the license holder or the complainant, the disciplining authority must provide a copy of the file relating to the complaint but may not disclose information that is confidential or exempt from public disclosure.

Before a final decision is made, the disciplining authority must provide the complainant with an opportunity to be heard through an oral or written impact statement. This statement must be transmitted to the license holder if the license holder is not present at the disciplinary proceeding.

If the disciplining authority closes a complaint without making a statement of charges, the complainant may request the disciplining authority to reconsider the closure of the complaint or report on the basis of new information. If a request for reconsideration is made, the license holder must be notified by the disciplining authority and provided an opportunity to respond. The final decision on the request for reconsideration must be provided in writing to the complainant and the license holder.

EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended Amendments): Copies of the complaint or reports may be issued pursuant to the Public Records Act. License holders are required to certify that they have received the complainant's impact statement but not that they have read the statement. The disciplining authority must inform the license holder as well as the complainant of the final disposition of the complaint or report.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill: PRO: The current complaint process under the UDA does not always work which leads to frustration on the part of complainants. They can go through long periods of time without receiving information from DOH. This is about due process and providing all parties with notice and an opportunity to be heard. For complainants, the grieving process involves getting the chance to speak. This improves the transparency of the disciplinary process; currently, disciplinary bodies are not required to communicate with the filers of reports. This bill will permit new evidence and reconsideration of a decision.

OTHER: Before the investigation, the consequences of the complaint must be disclosed to the practitioner. We would like to work on amendments to the bill.

Persons Testifying: PRO: Representative Pederson, prime sponsor; Rex Johnson; Yanling Yu.

OTHER: Ezra Eickmeyer, Advocates for the Advancement of Asian Medicine; Melissa Johnson, Washington State Nurses Association, Physical Therapy Association; Melanie Stewart, Washington Podiatric Medical Association, American Massage Therapy Association, Licensed Mental Health Counselors.