

HOUSE BILL REPORT

ESHB 2451

As Passed House:
February 13, 2014

Title: An act relating to restricting the practice of sexual orientation change efforts.

Brief Description: Restricting the practice of sexual orientation change efforts.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Lias, Walsh, Moeller, Cody, Walkinshaw, Jinkins, Lytton, Goodman, Stanford, Wylie, Riccelli, Pettigrew, Roberts, Orwall, Ryu, Tarleton, Reykdal, Habib, Bergquist, Gregerson, Farrell, Pollet and Ormsby).

Brief History:

Committee Activity:

Health Care & Wellness: 1/22/14, 2/3/14, 2/5/14 [DPS].

Floor Activity:

Passed House: 2/13/14, 94-4.

Brief Summary of Engrossed Substitute Bill

- Establishes the performance of sexual orientation change efforts by a health care provider on a patient under 18 years old as an act of unprofessional conduct.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Clibborn, DeBolt, Green, G. Hunt, Jinkins, Manweller, Moeller, Morrell, Rodne, Ross, Short, Tharinger and Van De Wege.

Staff: Chris Blake (786-7392).

Background:

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.

The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 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 and taking disciplinary actions against a credentialed health care provider. Responsibilities in the disciplinary process are divided between the Secretary of Health (Secretary) and the 16 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.

There are numerous specified acts of unprofessional conduct under the UDA, some of which include negligence or malpractice, behavior involving dishonesty or corruption related to one's practice, false advertising, convictions related to one's practice, current misuse of drugs or alcohol, betrayal of a practitioner-patient privilege, practicing beyond the scope of one's profession, and misrepresentation or fraud related to the profession.

Upon a finding of an act of unprofessional conduct, the disciplining authority decides which sanctions should be ordered. These sanctions include: revocation of a license, suspension of a license, restriction of the practice, mandatory remedial education or treatment, monitoring of the practice, censure or reprimand, conditions of probation, payment of a fine, denial of a license request, corrective action, refund of billings, and surrender of the license.

Summary of Engrossed Substitute Bill:

It is unprofessional conduct for a health care provider to perform sexual orientation change efforts on a patient under 18 years old. The term "sexual orientation change efforts" is defined as a regime that seeks to change one's sexual orientation, including efforts to change behaviors or gender expressions or to reduce sexual or romantic attractions toward individuals of the same sex. The term does not include psychotherapies that: (1) provide acceptance, support, and understanding of clients or facilitate a client's coping, social support, and identity exploration; and (2) do not seek to change a person's sexual orientation.

The act is not to be construed to apply to either speech or religious practices or counseling that do not constitute sexual orientation change efforts practiced by a licensed health care provider on a patient under 18 years old. The act is also not to be construed to apply to non-licensed counselors acting under the auspices of a religious denomination or church.

It is stated that the Legislature intends to regulate the professional conduct of licensed health care providers related to performing sexual orientation change efforts on patients under 18 years old. Licensed health care providers may discuss sexual orientation change efforts with patients under 18 years old as long as the discussions do not constitute sexual orientation change efforts. Legislative findings and declarations are made stating that the state has a compelling interest in protecting the physical and psychological well-being of minors while maintaining a patient-driven process.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) These practices pose a significant risk of depression, other mental health complications, and potential for suicide. This bill will better protect youth in the community. The effects of sexual orientation change efforts are both physical and psychological. This practice can increase distress, disability, and suicidality. This protects children from both mental and spiritual harm. Sexual orientation change efforts amount to abuse through public shaming, isolation, and violence tied to one's sexuality.

Every major medical association in this country has condemned sexual orientation change efforts as ineffective and dangerous toward children. This practice is not based in science and does immeasurable harm to minors. There is no scientific basis to support sexual orientation change efforts and there is ample evidence that this causes damage to the clients and their families. This therapy goes against the teachings of religion.

This bill places the same restrictions as are in California and New Jersey. Making this practice an act of unprofessional conduct will help protect the public. This bill acts as a warning label to licensed clinicians about the harms of these therapies.

(Opposed) There are very few people who practice this in Washington. There is no scientific peer-reviewed study that shows any harm from sexual orientation change efforts. The state should proceed with caution before banning this practice. This kind of therapy is not for somebody who self-identifies as homosexual. This bill mandates a bias between a therapy and a client. This bill assumes that the state needs to protect children from their parents. This bill limits treatment options and forces youth to obtain treatment from nonprofessional sources. This bill discriminates against a conservative or Christian view of sexuality. This bill opens the state up to litigation.

Persons Testifying: (In support) Representative Liias, prime sponsor; Lucy Homans and Matthew Goldenberg, Washington State Psychological Association; Mary Langley, Association of Advanced Practices Psychiatric Nurses; Manny Santiago, University Baptist Church, Seattle; and Carey Morris, Washington Association for Marriage and Family Therapy and Equal Rights Washington.

(Opposed) Joseph Backholm, Family Policy Institute of Washington; and Rebecca Faust.

Persons Signed In To Testify But Not Testifying: None.