

SENATE BILL REPORT

ESHB 2451

As of February 25, 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 Liias, 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: Passed House: 2/13/14, 94-4.

Committee Activity: Health Care: 2/20/14.

SENATE COMMITTEE ON HEALTH CARE

Staff: Bonnie Kim (786-7316)

Background: The Uniform Disciplinary Act (UDA) governs disciplinary actions for all credentialed health care providers. The UDA establishes sanctions for acts of unprofessional conduct and provides disciplinary procedures. Acts of unprofessional conduct may include malpractice, misuse of drugs or alcohol, betrayal of a practitioner-patient privilege, and misrepresentation or fraud related to the profession.

Disciplinary responsibilities are divided between the Secretary of Health and 16 disciplining authorities according to the individual health care provider's profession and relevant step in the disciplinary process. If a disciplining authority finds a provider has committed an act of unprofessional conduct, it may impose sanctions, such as license revocation or suspension, practice restrictions, mandatory remedial education or treatment, practice monitoring, censure or reprimand, probation conditions, or payment of a fine.

Summary of Bill: It is unprofessional conduct for a licensed health care provider to perform sexual orientation change efforts on a patient under 18 years of age. "Sexual orientation change efforts" are defined as a regime that seeks to change an individual's sexual orientation, including efforts to change behaviors or gender expressions or to reduce sexual or romantic attraction 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

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change a person's sexual orientation. The act does not apply to speech and 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 of age.

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: PRO: The California and New Jersey Legislatures have recently passed similar bills. The California law, which the Ninth Circuit Court of Appeals upheld, does not prevent health care providers from expressing views to patients, referring clients to religious leaders, or restrict discussion of sexual orientation change efforts with the patient. The intent of the bill is to regulate unprofessional conduct of health care providers. The state routinely exercises its authority to regulate such unprofessional conduct. The therapies prohibited by the bill are already discredited by national health organizations. This bill would limit trauma to adolescents' minds, bodies, and mental health. Washington State has no provisions in place to fully protect the psychological and emotional health of the lesbian, gay, bisexual, and transgender community, especially minors. There was significant stakeholder involvement in crafting the bill, especially regarding the unprofessional conduct definition and how to best protect both the provider and patient. This is neither a partisan issue nor is it a protection of faith issue. Speech is already regulated among medical professionals.

CON: This bill forces the theory that homosexuality is an inherent facet of a person rather than a lifestyle choice. Furthermore, this bill would deny patients access to alternative forms of therapies and limit treatment options. Reparative therapy is a useful tool in matters of sexual orientation questions and this bill would remove that therapy as a treatment option. The proponent's evidence states there is no proof of harm from these reparative therapy. The abuses alleged by proponents are not occurring. This bill removes a parent's rights regarding their children. This bill violates the First Amendment guarantee of free speech by denying therapists the opportunity to present more than one option when prescribing treatment. There is also an issue with government involvement in church affairs and religious freedom. Pronouncements from the various health care institutions cited by proponents may have been politically rather than medically motivated. Sexual orientation operates on a spectrum, rather than the stark viewpoint proposed by the bill. There is agreement that therapies such as ice baths and electroshock therapy are bad and should be banned. It is beyond the purview of the legislative body to prevent pain of all kinds, which this bill is attempting to do.

Persons Testifying: PRO: Senator Liias, prime sponsor; Representative Walsh; Dave Thompson, Reverend; David Ward, Legal Voice; Lucy Homans, WA State Psychological Assn.; Matt Goldenberg, Licensed Mental Health Counselor; Carey Morris, WA Assn. for Marriage and Family Therapy; Daniel Cords, Klint Kendrick, citizens.

CON: Mark Murphy, Medical Doctor; David Pickup, Licensed Psychotherapist; Joseph Fuiten, Cedar Park Assembly of God; Robin Goodspeed, Joseph Backholm, Family Policy Institute of WA; Karol Mauss, Terry Trudel, Bill Wells, citizens.