

# SENATE BILL REPORT

## SB 5980

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As of January 26, 2014

**Title:** An act relating to creation of a quality improvement program for the licensees of the medical quality assurance commission.

**Brief Description:** Creating a quality improvement program for the licensees of the medical quality assurance commission.

**Sponsors:** Senators Cleveland, Rivers and Keiser.

**Brief History:**

**Committee Activity:** Health Care: 1/23/14.

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### SENATE COMMITTEE ON HEALTH CARE

**Staff:** Kathleen Buchli (786-7488)

**Background:** The Medical Quality Assurance Commission (Commission) licenses, establishes professional standards for, and disciplines physicians and physician assistants. The Commission consists of 21 members: 13 physicians, two physician assistants, and six members of the public. Discipline of physicians and physician assistants is governed by the Uniform Disciplinary Act (UDA). Under the UDA, the Commission may take action against a physician or physician assistant for a variety of reasons, including unprofessional conduct, unlicensed practice, and the mental or physical inability to practice skillfully or safely. To initiate discipline under the UDA, the Commission conducts an investigation and files a statement of charges. Following one or more hearings, the Commission may issue a finding that a physician or physician assistant committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition. Sanctions available to the Commission include revocation or suspension of the license, restriction of the practice, compelled completion of a program or treatment, monitoring, reprimand, probationary conditions, fines, corrective action, and a surrender of the license. In lieu of discipline, the Commission may refer a physician or physician assistant to a voluntary substance abuse monitoring program if the unprofessional conduct results from substance abuse. A physician or physician assistant who voluntarily participates in the program without being referred by the Commission is not subject to discipline for substance abuse.

**Summary of Bill:** The Commission must establish a quality improvement program to address deficits or concerns in practice that do not constitute unprofessional conduct and do

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not pose a threat to patient safety. Quality improvement program is defined to mean a program that seeks to educate and improve practitioner proficiency with regard to quality of care, professional standards, ethical guidelines, and other practice standard issues. The program is educational and non-disciplinary.

The quality improvement program authorizes the Commission to enter into supporting relationships with professionals who provide evaluation, education, or quality care improvement; receive and assess reports raising issues with a physician's or physician assistant's care or conduct; intervene in cases of questionable behavior or care; refer physicians or physician assistants for evaluation, education, or quality improvement; monitor education and quality improvement through meetings; provide monitoring and continuing rehabilitative support; and provide prevention, education, and continuing education. The Commission may initiate an element of the program through the formal complaint process, the investigation process, or concerns shared informally with the Commission. To resolve a concern, complaint, or investigation related to a physician or physician assistant, the Commission may issue a professional development plan, issue a letter of guidance, compel an informal interview, or compel a quality assessment.

A physician or physician assistant is only eligible for a professional development plan if that individual has not entered into a plan in the previous five years. The physician or physician assistant is responsible for the costs of the plan. A professional development plan may not revoke, suspend, or restrict a license or assess a penalty. It also may not be used to resolve a complaint in which the appropriate resolution involves a restriction on practice nor a complaint concerning a patient death, a felony, a matter in which a physician engaged in inappropriate sexual behavior with a patient, or a matter in which a physician inappropriately became financially or personally involved with a patient.

A letter of guidance may detail areas of concern regarding practice, as well as remedies for the physician or physician assistant to self-educate. It is not a disciplinary finding and may not be used as evidence in civil proceedings, but the Commission may use the letter in administrative matters.

The purpose of the informal interview is to engage in a candid discussion between medical professionals regarding an area of practice or a situation of concern related to practice. The interview is attended by a commissioner, a medical consultant to the Commission, and the physician or physician assistant, who may invite legal representation. The interview does not preclude the Commission from proceeding with disciplinary action.

A quality assessment may include a 360 degree evaluation, physical evaluation, mental evaluation, and practice review. The assessment may be conducted with an assessment entity approved by the Commission in cooperation with the physician's or physician assistant's employer. The employer may not use the quality assessment to initiate discipline. Results of the quality assessment are confidential. The Commission is granted rulemaking authority to implement the quality improvement program.

Commission meetings to discuss or adopt a non-disciplinary resolution are not subject to the Administrative Procedure Act or the Open Public Meetings Act. In addition, records and findings are not subject to disclosure under the Public Records Act and are not admissible in

a civil, criminal, or administrative action, except a disciplinary proceeding. Participation in the quality improvement program does not imply that a physician or physician assistant violated the Medical Practice Act or failed to adhere to the standard of care.

**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 Commission does not have the ability to engage in proactive efforts to help their licensees hone their skills; room outside the disciplinary process is needed. The Commission is supportive of this bill. Other states' boards and commissions use this approach to teach their members outside of a disciplinary process. This bill does not transfer disciplinary action to non-disciplinary action, but it addresses situations that do not require a full disciplinary action. No professional repercussions will occur because of this bill; the intent is to educate and not affect a provider's practice. This will ensure public safety and professional competency.

OTHER: We support the pre-disciplinary step. However, we would like this alternative applied to other professions subject to the UDA.

**Persons Testifying:** PRO: Senator Cleveland, prime sponsor; Thomas Green, Micah Matthews, Medical Quality Assurance Commission; Carl Nelson, WA State Medical Assn.

OTHER: Lisa Hodgson, Dept. of Health, Dental Quality Assurance Commission.