
SUBSTITUTE HOUSE BILL 2451

State of Washington

63rd Legislature

2014 Regular Session

By House 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)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to restricting the practice of sexual orientation
2 change efforts; amending RCW 18.130.020 and 18.130.180; and creating a
3 new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature intends to regulate the
6 professional conduct of licensed health care providers with respect to
7 performing sexual orientation change efforts on patients under age
8 eighteen. This act may not be construed to apply to speech that does
9 not constitute the performance of sexual orientation change efforts by
10 licensed health care providers on patients under age eighteen, nor
11 shall it be construed to apply to religious practices or counseling
12 under the auspices of a religious denomination, church, or organization
13 that do not constitute the performance of sexual orientation change
14 efforts by licensed health care providers on patients under age
15 eighteen.

16 (2) The legislature finds and declares that Washington has a
17 compelling interest in protecting the physical and psychological well-
18 being of minors, including lesbian, gay, bisexual, and transgender

1 youth, and in protecting its minors against exposure to serious harms
2 caused by sexual orientation change efforts.

3 **Sec. 2.** RCW 18.130.020 and 2008 c 134 s 2 are each amended to read
4 as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Board" means any of those boards specified in RCW 18.130.040.

8 (2) "Clinical expertise" means the proficiency or judgment that a
9 license holder in a particular profession acquires through clinical
10 experience or clinical practice and that is not possessed by a lay
11 person.

12 (3) "Commission" means any of the commissions specified in RCW
13 18.130.040.

14 (4) "Department" means the department of health.

15 (5) "Disciplinary action" means sanctions identified in RCW
16 18.130.160.

17 (6) "Disciplining authority" means the agency, board, or commission
18 having the authority to take disciplinary action against a holder of,
19 or applicant for, a professional or business license upon a finding of
20 a violation of this chapter or a chapter specified under RCW
21 18.130.040.

22 (7) "Health agency" means city and county health departments and
23 the department of health.

24 (8) "License," "licensing," and "licensure" shall be deemed
25 equivalent to the terms "license," "licensing," "licensure,"
26 "certificate," "certification," and "registration" as those terms are
27 defined in RCW 18.120.020.

28 (9) "Practice review" means an investigative audit of records
29 related to the complaint, without prior identification of specific
30 patient or consumer names, or an assessment of the conditions,
31 circumstances, and methods of the professional's practice related to
32 the complaint, to determine whether unprofessional conduct may have
33 been committed.

34 (10) "Secretary" means the secretary of health or the secretary's
35 designee.

36 (11)(a) "Sexual orientation change efforts" means a regime that
37 seeks to change an individual's sexual orientation. The term includes

1 efforts to change behaviors or gender expressions, or to eliminate or
2 reduce sexual or romantic attractions or feelings toward individuals of
3 the same sex. The term includes, but is not limited to, practices
4 commonly referred to as "reparative therapy" or "conversion therapy."

5 (b) The term does not include psychotherapies that (i) provide
6 acceptance, support, and understanding of clients or the facilitation
7 of clients' coping, social support, and identity exploration and
8 development, including sexual orientation-neutral interventions to
9 prevent or address unlawful conduct or unsafe sexual practices; and
10 (ii) do not seek to change sexual orientation.

11 (12) "Standards of practice" means the care, skill, and learning
12 associated with the practice of a profession.

13 ~~((+12+))~~ (13) "Unlicensed practice" means:

14 (a) Practicing a profession or operating a business identified in
15 RCW 18.130.040 without holding a valid, unexpired, unrevoked, and
16 unsuspended license to do so; or

17 (b) Representing to a consumer, through offerings, advertisements,
18 or use of a professional title or designation, that the individual is
19 qualified to practice a profession or operate a business identified in
20 RCW 18.130.040, without holding a valid, unexpired, unrevoked, and
21 unsuspended license to do so.

22 **Sec. 3.** RCW 18.130.180 and 2010 c 9 s 5 are each amended to read
23 as follows:

24 The following conduct, acts, or conditions constitute
25 unprofessional conduct for any license holder under the jurisdiction of
26 this chapter:

27 (1) The commission of any act involving moral turpitude,
28 dishonesty, or corruption relating to the practice of the person's
29 profession, whether the act constitutes a crime or not. If the act
30 constitutes a crime, conviction in a criminal proceeding is not a
31 condition precedent to disciplinary action. Upon such a conviction,
32 however, the judgment and sentence is conclusive evidence at the
33 ensuing disciplinary hearing of the guilt of the license holder of the
34 crime described in the indictment or information, and of the person's
35 violation of the statute on which it is based. For the purposes of
36 this section, conviction includes all instances in which a plea of
37 guilty or nolo contendere is the basis for the conviction and all

1 proceedings in which the sentence has been deferred or suspended.
2 Nothing in this section abrogates rights guaranteed under chapter 9.96A
3 RCW;

4 (2) Misrepresentation or concealment of a material fact in
5 obtaining a license or in reinstatement thereof;

6 (3) All advertising which is false, fraudulent, or misleading;

7 (4) Incompetence, negligence, or malpractice which results in
8 injury to a patient or which creates an unreasonable risk that a
9 patient may be harmed. The use of a nontraditional treatment by itself
10 shall not constitute unprofessional conduct, provided that it does not
11 result in injury to a patient or create an unreasonable risk that a
12 patient may be harmed;

13 (5) Suspension, revocation, or restriction of the individual's
14 license to practice any health care profession by competent authority
15 in any state, federal, or foreign jurisdiction, a certified copy of the
16 order, stipulation, or agreement being conclusive evidence of the
17 revocation, suspension, or restriction;

18 (6) Except when authorized by RCW 18.130.345, the possession, use,
19 prescription for use, or distribution of controlled substances or
20 legend drugs in any way other than for legitimate or therapeutic
21 purposes, diversion of controlled substances or legend drugs, the
22 violation of any drug law, or prescribing controlled substances for
23 oneself;

24 (7) Violation of any state or federal statute or administrative
25 rule regulating the profession in question, including any statute or
26 rule defining or establishing standards of patient care or professional
27 conduct or practice;

28 (8) Failure to cooperate with the disciplining authority by:

29 (a) Not furnishing any papers, documents, records, or other items;

30 (b) Not furnishing in writing a full and complete explanation
31 covering the matter contained in the complaint filed with the
32 disciplining authority;

33 (c) Not responding to subpoenas issued by the disciplining
34 authority, whether or not the recipient of the subpoena is the accused
35 in the proceeding; or

36 (d) Not providing reasonable and timely access for authorized
37 representatives of the disciplining authority seeking to perform
38 practice reviews at facilities utilized by the license holder;

1 (9) Failure to comply with an order issued by the disciplining
2 authority or a stipulation for informal disposition entered into with
3 the disciplining authority;

4 (10) Aiding or abetting an unlicensed person to practice when a
5 license is required;

6 (11) Violations of rules established by any health agency;

7 (12) Practice beyond the scope of practice as defined by law or
8 rule;

9 (13) Misrepresentation or fraud in any aspect of the conduct of the
10 business or profession;

11 (14) Failure to adequately supervise auxiliary staff to the extent
12 that the consumer's health or safety is at risk;

13 (15) Engaging in a profession involving contact with the public
14 while suffering from a contagious or infectious disease involving
15 serious risk to public health;

16 (16) Promotion for personal gain of any unnecessary or
17 inefficacious drug, device, treatment, procedure, or service;

18 (17) Conviction of any gross misdemeanor or felony relating to the
19 practice of the person's profession. For the purposes of this
20 subsection, conviction includes all instances in which a plea of guilty
21 or nolo contendere is the basis for conviction and all proceedings in
22 which the sentence has been deferred or suspended. Nothing in this
23 section abrogates rights guaranteed under chapter 9.96A RCW;

24 (18) The procuring, or aiding or abetting in procuring, a criminal
25 abortion;

26 (19) The offering, undertaking, or agreeing to cure or treat
27 disease by a secret method, procedure, treatment, or medicine, or the
28 treating, operating, or prescribing for any health condition by a
29 method, means, or procedure which the licensee refuses to divulge upon
30 demand of the disciplining authority;

31 (20) The willful betrayal of a practitioner-patient privilege as
32 recognized by law;

33 (21) Violation of chapter 19.68 RCW;

34 (22) Interference with an investigation or disciplinary proceeding
35 by willful misrepresentation of facts before the disciplining authority
36 or its authorized representative, or by the use of threats or
37 harassment against any patient or witness to prevent them from
38 providing evidence in a disciplinary proceeding or any other legal

1 action, or by the use of financial inducements to any patient or
2 witness to prevent or attempt to prevent him or her from providing
3 evidence in a disciplinary proceeding;

4 (23) Current misuse of:

5 (a) Alcohol;

6 (b) Controlled substances; or

7 (c) Legend drugs;

8 (24) Abuse of a client or patient or sexual contact with a client
9 or patient;

10 (25) Acceptance of more than a nominal gratuity, hospitality, or
11 subsidy offered by a representative or vendor of medical or health-
12 related products or services intended for patients, in contemplation of
13 a sale or for use in research publishable in professional journals,
14 where a conflict of interest is presented, as defined by rules of the
15 disciplining authority, in consultation with the department, based on
16 recognized professional ethical standards;

17 (26) Performing sexual orientation change efforts on a patient
18 under age eighteen.

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