
SENATE BILL 5754

State of Washington

64th Legislature

2015 Regular Session

By Senators Keiser, Cleveland, McAuliffe, Conway, Jayapal, Parlette, and Dammeier; by request of Department of Health

Read first time 02/02/15. Referred to Committee on Health Care.

1 AN ACT Relating to education-based practice remediation for
2 licensed health and health-related professions; and adding a new
3 section to chapter 18.130 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.130
6 RCW to read as follows:

7 (1) In addition to the authority to take formal disciplinary
8 action under RCW 18.130.090 or 18.130.170, and informal discipline
9 under RCW 18.130.172, the disciplining authority may, after
10 investigation, offer a license holder a remediation plan to resolve
11 eligible complaints of unprofessional conduct under this section.

12 (2)(a) A remediation plan must not be used in any case in which
13 there is evidence of harm to a patient or client as a direct result
14 of the license holder's practice-related deficiencies.

15 (b) A remediation plan may be offered at the discretion of the
16 disciplining authority to resolve eligible complaints. Nothing in
17 this subsection:

18 (i) Requires the use of a remediation plan before taking informal
19 or formal disciplinary action; or

20 (ii) Grants a license holder the right to:

21 (A) A remediation plan;

1 (B) A hearing to modify a remediation plan or challenge the
2 disciplining authority's decision regarding successful completion of
3 a remediation plan; or

4 (C) An administrative review or appeal.

5 (3) A disciplining authority may not offer a remediation plan to
6 resolve a complaint if:

7 (a) The investigation reveals evidence of:

8 (i) Abuse, neglect, or financial exploitation of a patient or
9 client;

10 (ii) Sexual misconduct;

11 (iii) Diversion of a controlled substance or legend drug for the
12 license holder's personal use or for distribution to another person;

13 (iv) Use, prescription for use, or distribution of a controlled
14 substance or legend drug in any way other than for legitimate
15 therapeutic purposes, including prescribing a controlled substance
16 for oneself;

17 (v) Substance abuse or misuse;

18 (vi) Conviction of any felony;

19 (vii) Gross incompetence; or

20 (viii) Any other category of allegation identified by the
21 disciplining authority in rule;

22 (b) The license holder is currently subject to informal or formal
23 disciplinary action;

24 (c) The disciplining authority determines the appropriate
25 resolution requires restriction, suspension, or revocation of the
26 license holder's credential;

27 (d) The license holder has been engaged in a remediation plan
28 with the disciplining authority during the five years immediately
29 before receipt of the complaint. A disciplining authority may adopt
30 rules establishing less frequent eligibility.

31 (4) When entering into a remediation plan, the disciplining
32 authority and a license holder must acknowledge and agree:

33 (a) The license holder does not admit to any acts of
34 unprofessional conduct and the disciplining authority makes no
35 finding of unprofessional conduct;

36 (b) The remediation plan is not disciplinary action, adverse
37 action, or negative action, and is not reportable under RCW
38 18.130.110 to national databases, professional associations or
39 organizations, the media, the department's web site, or counterpart
40 licensing boards in other states;

1 (c) The remediation plan is not admissible in any civil,
2 criminal, or administrative action, except it is admissible in any
3 disciplinary proceeding by any disciplining authority;

4 (d) The remediation plan and all related documents are subject to
5 public disclosure under chapter 42.56 RCW;

6 (e) The complainant will be notified that the license holder and
7 disciplining authority have agreed to resolve the complaint through a
8 remediation plan;

9 (f) The license holder must sign all necessary releases to allow
10 the disciplining authority to receive information relevant to
11 compliance with the remediation plan;

12 (g) The disciplining authority may assess a fee against the
13 license holder in an amount necessary to recover the costs of
14 administering the remediation plan;

15 (h) Successful completion of the remediation plan resolves the
16 allegations of unprofessional conduct contained in the investigative
17 file and no other sanction may be imposed based solely on that
18 conduct;

19 (i) The disciplining authority may investigate and take
20 disciplinary action based on any allegation received or evidence
21 discovered during the term of the remediation plan; and

22 (j) In the event the license holder fails to comply with the
23 remediation plan, the disciplining authority may take disciplinary
24 action against the license holder and the license holder may not
25 contest or object to the admissibility of evidence contained in the
26 investigative file.

27 (5) A disciplining authority may adopt rules necessary to
28 implement this section.

29 (6) For the purposes of this section:

30 (a) "Gross incompetence" means the license holder does not have
31 the ability to practice with reasonable skill and safety as
32 determined by the disciplining authority.

33 (b) "License holder" means a person registered, certified, or
34 licensed in a profession listed in RCW 18.130.040(2).

35 (c) "Remediation plan" means an agreement between the
36 disciplining authority and the license holder that includes one or
37 more educational or corrective activities intended to resolve
38 practice-related deficiencies.

39 (d) "Sexual misconduct" means:

- 1 (i) Sexual contact with a current client or patient as defined by
2 the disciplining authority in rule;
- 3 (ii) Sexual contact with a former client or patient within a
4 period of time prohibited by the disciplining authority in rule;
- 5 (iii) Sexual contact with any person involving force,
6 intimidation, or lack of consent; or
- 7 (iv) Conviction of a sex offense as defined in RCW 9.94A.030.

--- END ---