
SUBSTITUTE SENATE BILL 5870

State of Washington

64th Legislature

2015 Regular Session

By Senate Health Care (originally sponsored by Senators Lias, Litzow, Pedersen, Fain, Ranker, Rivers, Frockt, Cleveland, Mullet, Kohl-Welles, Keiser, Chase, Billig, Hasegawa, Darneille, and Habib)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to protecting youth from aversive mental health
2 therapies; amending RCW 18.130.020 and 18.130.180; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to regulate the
6 professional conduct of licensed health care providers with respect
7 to performing aversive mental health therapies on patients under the
8 age of eighteen. This includes, but is not limited to, aversive
9 efforts that seek to change an individual's sexual orientation, that
10 seek to stop an individual from using tobacco products, or that seek
11 to stop an individual from using alcohol, prescription drugs, or
12 other controlled substances.

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

15 The definitions in this section apply throughout this chapter
16 unless the context clearly requires otherwise.

17 (1) "Board" means any of those boards specified in RCW
18 18.130.040.

19 (2) "Clinical expertise" means the proficiency or judgment that a
20 license holder in a particular profession acquires through clinical

1 experience or clinical practice and that is not possessed by a lay
2 person.

3 (3) "Commission" means any of the commissions specified in RCW
4 18.130.040.

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

6 (5) "Disciplinary action" means sanctions identified in RCW
7 18.130.160.

8 (6) "Disciplining authority" means the agency, board, or
9 commission having the authority to take disciplinary action against a
10 holder of, or applicant for, a professional or business license upon
11 a finding of a violation of this chapter or a chapter specified under
12 RCW 18.130.040.

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

15 (8) "License," "licensing," and "licensure" shall be deemed
16 equivalent to the terms "license," "licensing," "licensure,"
17 "certificate," "certification," and "registration" as those terms are
18 defined in RCW 18.120.020.

19 (9) "Practice review" means an investigative audit of records
20 related to the complaint, without prior identification of specific
21 patient or consumer names, or an assessment of the conditions,
22 circumstances, and methods of the professional's practice related to
23 the complaint, to determine whether unprofessional conduct may have
24 been committed.

25 (10)(a) "Prohibited aversion therapy" means a practice,
26 treatment, or therapy involving electrical shock, extreme
27 temperatures, prolonged isolation, chemically induced nausea or
28 vomiting, assault as defined in chapter 9A.36 RCW, or other
29 procedures intending to cause pain, discomfort, or unpleasant
30 sensations to the client or patient.

31 (b) "Prohibited aversion therapy" does not include those
32 practices, treatments, or therapies that are within the standards of
33 practice for license holders under this chapter as provided in
34 department rules.

35 (11) "Secretary" means the secretary of health or the secretary's
36 designee.

37 ((+11)) (12) "Standards of practice" means the care, skill, and
38 learning associated with the practice of a profession.

39 ((+12)) (13) "Unlicensed practice" means:

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

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

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

11 The following conduct, acts, or conditions constitute
12 unprofessional conduct for any license holder under the jurisdiction
13 of this chapter:

14 (1) The commission of any act involving moral turpitude,
15 dishonesty, or corruption relating to the practice of the person's
16 profession, whether the act constitutes a crime or not. If the act
17 constitutes a crime, conviction in a criminal proceeding is not a
18 condition precedent to disciplinary action. Upon such a conviction,
19 however, the judgment and sentence is conclusive evidence at the
20 ensuing disciplinary hearing of the guilt of the license holder of
21 the crime described in the indictment or information, and of the
22 person's violation of the statute on which it is based. For the
23 purposes of this section, conviction includes all instances in which
24 a plea of guilty or nolo contendere is the basis for the conviction
25 and all proceedings in which the sentence has been deferred or
26 suspended. Nothing in this section abrogates rights guaranteed under
27 chapter 9.96A RCW;

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

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

31 (4) Incompetence, negligence, or malpractice which results in
32 injury to a patient or which creates an unreasonable risk that a
33 patient may be harmed. The use of a nontraditional treatment by
34 itself shall not constitute unprofessional conduct, provided that it
35 does not result in injury to a patient or create an unreasonable risk
36 that a patient may be harmed;

37 (5) Suspension, revocation, or restriction of the individual's
38 license to practice any health care profession by competent authority
39 in any state, federal, or foreign jurisdiction, a certified copy of

1 the order, stipulation, or agreement being conclusive evidence of the
2 revocation, suspension, or restriction;

3 (6) Except when authorized by RCW 18.130.345, the possession,
4 use, prescription for use, or distribution of controlled substances
5 or legend drugs in any way other than for legitimate or therapeutic
6 purposes, diversion of controlled substances or legend drugs, the
7 violation of any drug law, or prescribing controlled substances for
8 oneself;

9 (7) Violation of any state or federal statute or administrative
10 rule regulating the profession in question, including any statute or
11 rule defining or establishing standards of patient care or
12 professional conduct or practice;

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

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

16 (b) Not furnishing in writing a full and complete explanation
17 covering the matter contained in the complaint filed with the
18 disciplining authority;

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

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

25 (9) Failure to comply with an order issued by the disciplining
26 authority or a stipulation for informal disposition entered into with
27 the disciplining authority;

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

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

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

33 (13) Misrepresentation or fraud in any aspect of the conduct of
34 the business or profession;

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

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

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

3 (17) Conviction of any gross misdemeanor or felony relating to
4 the practice of the person's profession. For the purposes of this
5 subsection, conviction includes all instances in which a plea of
6 guilty or nolo contendere is the basis for conviction and all
7 proceedings in which the sentence has been deferred or suspended.
8 Nothing in this section abrogates rights guaranteed under chapter
9 9.96A RCW;

10 (18) The procuring, or aiding or abetting in procuring, a
11 criminal abortion;

12 (19) The offering, undertaking, or agreeing to cure or treat
13 disease by a secret method, procedure, treatment, or medicine, or the
14 treating, operating, or prescribing for any health condition by a
15 method, means, or procedure which the licensee refuses to divulge
16 upon demand of the disciplining authority;

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

19 (21) Violation of chapter 19.68 RCW;

20 (22) Interference with an investigation or disciplinary
21 proceeding by willful misrepresentation of facts before the
22 disciplining authority or its authorized representative, or by the
23 use of threats or harassment against any patient or witness to
24 prevent them from providing evidence in a disciplinary proceeding or
25 any other legal action, or by the use of financial inducements to any
26 patient or witness to prevent or attempt to prevent him or her from
27 providing evidence in a disciplinary proceeding;

28 (23) Current misuse of:

29 (a) Alcohol;

30 (b) Controlled substances; or

31 (c) Legend drugs;

32 (24) Abuse of a client or patient or sexual contact with a client
33 or patient;

34 (25) Acceptance of more than a nominal gratuity, hospitality, or
35 subsidy offered by a representative or vendor of medical or health-
36 related products or services intended for patients, in contemplation
37 of a sale or for use in research publishable in professional
38 journals, where a conflict of interest is presented, as defined by
39 rules of the disciplining authority, in consultation with the
40 department, based on recognized professional ethical standards;

1 (26) Performing prohibited aversion therapy on a patient under
2 age eighteen.

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