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HOUSE BILL 2753

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Macri, DeBolt, Caldier, Harris, Doglio, Graves, Peterson, Senn, McDonald, Tarleton, Riccelli, McBride, Stonier, Tharinger, Valdez, Kloba, MacEwen, Kilduff, Jenkins, Reeves, Robinson, Cody, Stanford, Kagi, Appleton, Sawyer, Fitzgibbon, Bergquist, Goodman, Gregerson, Santos, Clibborn, Pollet, Frame, and Slatter

Read first time 01/15/18. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to restricting the practice of conversion  
2 therapy; 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.** (1) The legislature intends to regulate  
6 the professional conduct of licensed health care providers with  
7 respect to performing conversion therapy on patients under age  
8 eighteen. This act may not be construed to apply to speech that does  
9 not constitute the performance of conversion therapy by licensed  
10 health care providers on patients under age eighteen, nor shall it be  
11 construed to apply to religious practices or counseling under the  
12 auspices of a religious denomination, church, or organization that do  
13 not constitute the performance of conversion therapy by licensed  
14 health care providers on patients under age eighteen.

15 (2) The legislature finds and declares that Washington has a  
16 compelling interest in protecting the physical and psychological  
17 well-being of minors, including lesbian, gay, bisexual, and  
18 transgender youth, and in protecting its minors against exposure to  
19 serious harms caused by conversion therapy.

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

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Board" means any of those boards specified in RCW  
6 18.130.040.

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

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

13       (4) "Conversion therapy" means a regime that seeks to change an  
14 individual's sexual orientation or gender identity. The term includes  
15 efforts to change behaviors or gender expressions, or to eliminate or  
16 reduce sexual or romantic attractions or feelings toward individuals  
17 of the same sex. The term includes, but is not limited to, practices  
18 commonly referred to as "reparative therapy" or "conversion therapy."

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

20       ~~((+5))~~ (6) "Disciplinary action" means sanctions identified in  
21 RCW 18.130.160.

22       ~~((+6))~~ (7) "Disciplining authority" means the agency, board, or  
23 commission having the authority to take disciplinary action against a  
24 holder of, or applicant for, a professional or business license upon  
25 a finding of a violation of this chapter or a chapter specified under  
26 RCW 18.130.040.

27       ~~((+7))~~ (8) "Health agency" means city and county health  
28 departments and the department of health.

29       ~~((+8))~~ (9) "License," "licensing," and "licensure" shall be  
30 deemed equivalent to the terms "license," "licensing," "licensure,"  
31 "certificate," "certification," and "registration" as those terms are  
32 defined in RCW 18.120.020.

33       ~~((+9))~~ (10) "Practice review" means an investigative audit of  
34 records related to the complaint, without prior identification of  
35 specific patient or consumer names, or an assessment of the  
36 conditions, circumstances, and methods of the professional's practice  
37 related to the complaint, to determine whether unprofessional conduct  
38 may have been committed.

39       ~~((+10))~~ (11) "Secretary" means the secretary of health or the  
40 secretary's designee.

1       (~~(11)~~) (12) "Standards of practice" means the care, skill, and  
2 learning associated with the practice of a profession.

3       (~~(12)~~) (13) "Unlicensed practice" means:

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

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

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

14       The following conduct, acts, or conditions constitute  
15 unprofessional conduct for any license holder under the jurisdiction  
16 of this chapter:

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

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

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

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

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

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

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

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

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

19 (b) Not furnishing in writing a full and complete explanation  
20 covering the matter contained in the complaint filed with the  
21 disciplining authority;

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

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

28 (9) Failure to comply with an order issued by the disciplining  
29 authority or a stipulation for informal disposition entered into with  
30 the disciplining authority;

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

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

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

36 (13) Misrepresentation or fraud in any aspect of the conduct of  
37 the business or profession;

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

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

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

6 (17) Conviction of any gross misdemeanor or felony relating to  
7 the practice of the person's profession. For the purposes of this  
8 subsection, conviction includes all instances in which a plea of  
9 guilty or nolo contendere is the basis for conviction and all  
10 proceedings in which the sentence has been deferred or suspended.  
11 Nothing in this section abrogates rights guaranteed under chapter  
12 9.96A RCW;

13 (18) The procuring, or aiding or abetting in procuring, a  
14 criminal abortion;

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

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

22 (21) Violation of chapter 19.68 RCW;

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

31 (23) Current misuse of:

32 (a) Alcohol;

33 (b) Controlled substances; or

34 (c) Legend drugs;

35 (24) Abuse of a client or patient or sexual contact with a client  
36 or patient;

37 (25) Acceptance of more than a nominal gratuity, hospitality, or  
38 subsidy offered by a representative or vendor of medical or health-  
39 related products or services intended for patients, in contemplation  
40 of a sale or for use in research publishable in professional

1 journals, where a conflict of interest is presented, as defined by  
2 rules of the disciplining authority, in consultation with the  
3 department, based on recognized professional ethical standards;  
4 (26) Performing conversion therapy on a patient under age  
5 eighteen.

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