
Health Care & Wellness Committee

HB 1198

Brief Description: Requiring health care providers sanctioned for sexual misconduct to notify patients.

Sponsors: Representatives Caldier, Cody, Harris, Orwall, Slatter, Macri, Wylie, Eslick, Doglio, Griffey and Robinson.

Brief Summary of Bill

- Requires a health care provider to notify a patient if the provider has been sanctioned by a disciplining authority for sexual misconduct and is under oversight by a disciplining authority.

Hearing Date: 2/5/19

Staff: Kim Weidenaar (786-7120).

Background:

Uniform Disciplinary Act.

The Uniform Disciplinary Act (UDA) governs credentialed health professionals (licensees) credentialed by the Department of Health or one of the health professions' board or commission. Depending on the profession, the disciplining authority may be the Secretary of Health (Secretary) or a board or commission. Under the UDA, a disciplining authority may take action against a license holder for a variety of reasons, including misrepresentation or fraud, unlicensed practice, and the mental or physical inability to practice skillfully or safely. A disciplining authority may initiate a disciplinary action after receiving a complaint or if the disciplining authority has reason to believe that the licensee engaged in unprofessional conduct.

Once a disciplining authority receives a complaint, it makes a threshold determination as to whether the conduct in the complaint constitutes a violation of the law and whether the disciplining authority has the legal authority to take action. If a complaint does not meet this threshold, it is closed. If it does, the disciplining authority conducts an investigation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Following the investigation, if the disciplining authority has reason to believe that misconduct occurred, the disciplining authority may serve a statement of the charges on the licensee or follow an informal discipline process. If the disciplining authority serves a statement of the charges, the licensee is entitled to a hearing. If the disciplining authority finds that unprofessional conduct occurred, it issues sanctions. Available sanctions include revocation or suspension of the license, payment of a fine, mandatory completion of a remedial education program, and probation. The issuance of sanctions must be reported to: the national database, professional organizations and associations, other states' licensing authority, and the public.

If the alleged unprofessional conduct involves only sexual misconduct, the Secretary serves as the sole disciplining authority. A board or commission that receives such a complaint must forward the matter to the Secretary.

Surrogate Decision-Maker.

In Washington a person has the right to make his or her own health care decisions. If a patient is determined to be incapacitated or incompetent to make health care decisions on their own behalf, a surrogate party may speak for him or her, unless the patient indicates otherwise. The following is the list of persons, in order of priority, who may consent to health care decisions on behalf of a patient who is incapacitated or incompetent:

- an appointed guardian;
- a person with durable power of attorney to make health care decisions;
- a spouse or state registered domestic partner;
- adult children;
- parents; and
- adult siblings.

Summary of Bill:

A licensee subject to the Uniform Disciplinary Act that has been sanctioned by a disciplining authority for sexual misconduct must provide a disclosure to all patients before a patient's first visit with the licensee following the sanction while the licensee is subject to oversight by a disciplining authority.

The disclosure must include:

- the date of the sexual misconduct sanction;
- a description of all sanctions placed on the licensee by the disciplining authority;
- the duration of all sanctions;
- the disciplining authority's telephone number; and
- an explanation of how the patient can find more information about the licensee on the disciplining authority's online license information website.

The licensee must provide the patient or the patient's surrogate decision-maker with the disclosure, which must be signed by the patient or the surrogate decision-maker.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on October 1, 2019.