

FINAL BILL REPORT

SHB 1198

C 69 L 19
Synopsis as Enacted

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

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Caldier, Cody, Harris, Orwall, Slatter, Macri, Wylie, Eslick, Doglio, Griffey and Robinson).

House Committee on Health Care & Wellness
Senate Committee on Health & Long Term Care

Background:

Uniform Disciplinary Act.

The Uniform Disciplinary Act (UDA) governs credentialed health professionals (license holders) credentialed by the Department of Health or one of the health professions boards or commissions. 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.

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 license holder or follow an informal discipline process. If the disciplining authority serves a statement of the charges, the license holder 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:

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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.

Under the UDA, the term license is equivalent to certification and registration.

Surrogate Decision-Maker.

If a patient is determined to be incapacitated or incompetent to make health care decisions on his or her 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:

A license holder subject to the Uniform Disciplinary Act that has been sanctioned by a disciplining authority for an act of unprofessional conduct involving sexual misconduct, must provide a disclosure to any patient scheduled for an appointment with the license holder during the period of time that the license holder is subject to the order or stipulation. The disclosure is only required to be provided to a patient at or prior to the patient's first visit with the license holder following entry of the order or stipulation. The disclosure requirements only apply to license holders who were sanctioned on or after October 1, 2019.

The disclosure must include:

- a copy of the public order or stipulation;
- a description of all sanctions placed on the license holder 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 license holder on the disciplining authority's online license information website.

The license holder 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. A copy of the signed disclosure must be maintained in the patient's file.

A disciplining authority may adopt rules to exempt certain types of sexual misconduct from the disclosure requirements. Veterinarians and veterinary technicians are not required to provide the disclosure.

Votes on Final Passage:

House 96 0

Senate 47 0

Effective: October 1, 2019