

# HOUSE BILL REPORT

## HB 2834

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**As Reported by House Committee On:**  
Health Care

**Title:** An act relating to improving health professions discipline.

**Brief Description:** Improving the discipline of health professions.

**Sponsors:** Representatives Schual-Berke, Kagi, Cody, Lantz, Linville, Morrell, Wallace, Kenney, O'Brien, Miloscia, Sommers, Rockefeller and Darneille.

**Brief History:**

**Committee Activity:**

Health Care: 1/27/04, 2/3/04 [DPS].

**Brief Summary of Substitute Bill**

- Creates the Task Force on Improvement of Health Professions Discipline to review ways to improve the disciplinary process related to licensed health care providers.
- Provides immunity from civil actions to health care providers who report another provider's unprofessional conduct or lack of capacity to practice safely.

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### HOUSE COMMITTEE ON HEALTH CARE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Cody, Chair; Morrell, Vice Chair; Bailey, Ranking Minority Member; Campbell, Clibborn, Darneille, Moeller and Schual-Berke.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Alexander, Rodne and Skinner.

**Staff:** Chris Blake (786-7392).

**Background:**

The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 57 categories of credentialed health care providers. The UDA defines acts of unprofessional conduct, establishes sanctions for such acts, and provides general procedures for addressing

complaints and taking disciplinary actions against a credentialed health care provider. Responsibilities in the disciplinary process are divided between the Secretary of Health (Secretary) and the 16 health professions boards and commissions according to the profession that the health care provider is a member of and the relevant step in the disciplinary process.

After investigating a complaint or report of unprofessional conduct, the Secretary or the board or commission must decide what disciplinary action is warranted by the evidence. The case may be closed without further action, pursued through an informal action in the form of a statement of allegations, or pursued through a formal action in the form of a statement of charges. Upon a finding of an act of unprofessional conduct, the Secretary or the board or commission decides which sanctions should be ordered.

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### **Summary of Substitute Bill:**

#### Task Force on Improvement of Health Professions Discipline

The "Task Force on Improvement of Health Professions Discipline" (Task Force) is established to address ways to improve the discipline of health professionals. The Task Force shall review the funding of the health professions and all phases of the disciplinary process. Specific issues that must be addressed include:

- The ability of disciplining authorities to protect the public while ensuring due process rights;
- The creation of a performance measurement system for health professions discipline;
- Impediments to improving the health profession disciplinary system including the value of the health professions boards and commissions in the process and the roles of the Secretary of Health and the boards and commissions;
- The frequency of and circumstances for variations from advisory guidelines for sanctioning;
- Partnerships with law enforcement agencies; and
- Alternative fee structures for health care professionals.

Members of the Task Force shall be appointed by the Governor and the membership shall include the Secretary of Health and representatives of: a medicare-contracted professional review organization, the University of Washington, the Foundation for Health Care Quality, health care professionals, a hospital-based quality improvement program, a hospital peer review committee, the Superior Court Judges Association, the Washington State Bar Association, the Attorney General's Office, and consumers. The Task Force must report its recommendations to the Legislature by October 1, 2005.

#### Health Provider Reporting

Any health care professional who makes a good faith report, files charges, or presents evidence to a disciplining authority against another member of a health profession relating to alleged unprofessional conduct or inability to practice safely due to a physical or mental condition is immune from a civil action for damages resulting from those activities. If a person brings a civil action challenging the immunity, and the court determines that the immunity applies, the reporting health care professional may recover expenses and reasonable attorney fees.

Physicians who make a good faith report to the Medical Quality Assurance Commission against another physician relating to alleged unprofessional conduct or inability to practice safely due to a physical or mental condition, as mandated by law, are immune from a civil action for damages resulting from the reporting. If a person brings a civil action despite the immunity and the court determines that the immunity applies, the reporting physician may recover expenses and reasonable attorney fees.

### **Substitute Bill Compared to Original Bill:**

The Attorney General or his or her designee and two members of the public are added to the Task Force. It is specified that the representative of the Washington State Bar Association must be an attorney who defends health care professionals in disciplinary actions. It is specified that one of the health care professionals must be a physician. The Task Force is to address the frequency of variations from advisory guidelines for sanctions.

Statutory damages for health care providers who report unprofessional conduct and have their immunity challenged are removed.

Provisions establishing the standard of proof in disciplinary hearings are removed. The criteria to be reviewed when considering the reinstatement of a license are eliminated.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** Health care providers should be held accountable for their actions. This bill will protect the public from negligent health care providers.

**Testimony Against:** The clear, cogent, and convincing burden of proof will be too difficult to meet. Differing standards of proof may be confusing and establishes

preferential treatment of certain professions.

**Persons Testifying:** (In support) Larry Shannon and Bob Dawson, Washington State Trial Lawyers Association; and Ashley Bucy, Tanya Bashaw, and Chris Mirisciotta, patients.

(Support with amendment) Ron Weaver, Department of Health.

(Concerns) Gail McGaffick, Washington State Psychological Association, Washington Association of Nurse Anesthetists, and Acupuncture Association of Washington; Andy Dolan, Washington State Medical Association; and Melanie Stewart, Washington Podiatric Medical Association, American Massage Therapy Association, and Washington Mental Health Counselors.

**Persons Signed In To Testify But Not Testifying:** (In support) Bill Monto, Washington Citizens Action.