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SENATE BILL 5187

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Becker, Keiser, Hargrove, Stevens, and Carrell

Read first time 01/17/11. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the accountability of mental health  
2 professionals employed by an evaluation and treatment facility for  
3 communicating with a parent or guardian about the option of parent-  
4 initiated mental health treatment; and amending RCW 18.130.180 and  
5 71.34.375.

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

7 **Sec. 1.** RCW 18.130.180 and 2010 c 9 s 5 are each amended to read  
8 as follows:

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

12 (1) The commission of any act involving moral turpitude,  
13 dishonesty, or corruption relating to the practice of the person's  
14 profession, whether the act constitutes a crime or not. If the act  
15 constitutes a crime, conviction in a criminal proceeding is not a  
16 condition precedent to disciplinary action. Upon such a conviction,  
17 however, the judgment and sentence is conclusive evidence at the  
18 ensuing disciplinary hearing of the guilt of the license holder of the  
19 crime described in the indictment or information, and of the person's

1 violation of the statute on which it is based. For the purposes of  
2 this section, conviction includes all instances in which a plea of  
3 guilty or nolo contendere is the basis for the conviction and all  
4 proceedings in which the sentence has been deferred or suspended.  
5 Nothing in this section abrogates rights guaranteed under chapter 9.96A  
6 RCW;

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

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

10 (4) Incompetence, negligence, or malpractice which results in  
11 injury to a patient or which creates an unreasonable risk that a  
12 patient may be harmed. The use of a nontraditional treatment by itself  
13 shall not constitute unprofessional conduct, provided that it does not  
14 result in injury to a patient or create an unreasonable risk that a  
15 patient may be harmed;

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

21 (6) Except when authorized by RCW 18.130.345, the possession, use,  
22 prescription for use, or distribution of controlled substances or  
23 legend drugs in any way other than for legitimate or therapeutic  
24 purposes, diversion of controlled substances or legend drugs, the  
25 violation of any drug law, or prescribing controlled substances for  
26 oneself;

27 (7) Violation of any state or federal statute or administrative  
28 rule regulating the profession in question, including any statute or  
29 rule defining or establishing standards of patient care or professional  
30 conduct or practice;

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

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

33 (b) Not furnishing in writing a full and complete explanation  
34 covering the matter contained in the complaint filed with the  
35 disciplining authority;

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

- 1 (d) Not providing reasonable and timely access for authorized  
2 representatives of the disciplining authority seeking to perform  
3 practice reviews at facilities utilized by the license holder;
- 4 (9) Failure to comply with an order issued by the disciplining  
5 authority or a stipulation for informal disposition entered into with  
6 the disciplining authority;
- 7 (10) Aiding or abetting an unlicensed person to practice when a  
8 license is required;
- 9 (11) Violations of rules established by any health agency;
- 10 (12) Practice beyond the scope of practice as defined by law or  
11 rule;
- 12 (13) Misrepresentation or fraud in any aspect of the conduct of the  
13 business or profession;
- 14 (14) Failure to adequately supervise auxiliary staff to the extent  
15 that the consumer's health or safety is at risk;
- 16 (15) Engaging in a profession involving contact with the public  
17 while suffering from a contagious or infectious disease involving  
18 serious risk to public health;
- 19 (16) Promotion for personal gain of any unnecessary or  
20 inefficacious drug, device, treatment, procedure, or service;
- 21 (17) Conviction of any gross misdemeanor or felony relating to the  
22 practice of the person's profession. For the purposes of this  
23 subsection, conviction includes all instances in which a plea of guilty  
24 or nolo contendere is the basis for conviction and all proceedings in  
25 which the sentence has been deferred or suspended. Nothing in this  
26 section abrogates rights guaranteed under chapter 9.96A RCW;
- 27 (18) The procuring, or aiding or abetting in procuring, a criminal  
28 abortion;
- 29 (19) The offering, undertaking, or agreeing to cure or treat  
30 disease by a secret method, procedure, treatment, or medicine, or the  
31 treating, operating, or prescribing for any health condition by a  
32 method, means, or procedure which the licensee refuses to divulge upon  
33 demand of the disciplining authority;
- 34 (20) The willful betrayal of a practitioner-patient privilege as  
35 recognized by law;
- 36 (21) Violation of chapter 19.68 RCW;
- 37 (22) Interference with an investigation or disciplinary proceeding  
38 by willful misrepresentation of facts before the disciplining authority

1 or its authorized representative, or by the use of threats or  
2 harassment against any patient or witness to prevent them from  
3 providing evidence in a disciplinary proceeding or any other legal  
4 action, or by the use of financial inducements to any patient or  
5 witness to prevent or attempt to prevent him or her from providing  
6 evidence in a disciplinary proceeding;

7 (23) Current misuse of:

8 (a) Alcohol;

9 (b) Controlled substances; or

10 (c) Legend drugs;

11 (24) Abuse of a client or patient or sexual contact with a client  
12 or patient;

13 (25) Acceptance of more than a nominal gratuity, hospitality, or  
14 subsidy offered by a representative or vendor of medical or health-  
15 related products or services intended for patients, in contemplation of  
16 a sale or for use in research publishable in professional journals,  
17 where a conflict of interest is presented, as defined by rules of the  
18 disciplining authority, in consultation with the department, based on  
19 recognized professional ethical standards; or

20 (26) Failure to fulfill the duties required of mental health  
21 professionals under RCW 71.34.375 as the term "mental health  
22 professional" is defined in RCW 71.34.020.

23 **Sec. 2.** RCW 71.34.375 and 2003 c 107 s 1 are each amended to read  
24 as follows:

25 (1) The evaluation and treatment facility and any mental health  
26 professional employed or contracted by the facility who has contact  
27 with the parent or guardian of a minor child as part of his or her  
28 professional duties is required to promptly provide written and verbal  
29 notice of all statutorily available treatment options contained in this  
30 chapter to every parent or guardian of a minor child when the parent or  
31 guardian seeks to have his or her minor child treated at an evaluation  
32 and treatment facility.

33 (2) The notice must contain the following information:

34 (a) All current statutorily available treatment options including  
35 but not limited to those provided in this chapter; and

36 (b) The procedures to be followed to utilize the treatment options  
37 described in this chapter.

1           (3) The department shall produce, and make available, the written  
2 notification that must include, at a minimum, the information contained  
3 in subsection (2) of this section.

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