
SENATE BILL 5504

State of Washington

60th Legislature

2007 Regular Session

By Senators Keiser, Kohl-Welles, Franklin, Marr and Carrell

Read first time 01/22/2007. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the uniform sanctioning of health care
2 professionals; amending RCW 18.130.050; reenacting and amending RCW
3 18.130.160; and adding a new section to chapter 18.130 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.130 RCW
6 to read as follows:

7 The secretary, with the advice and consultation of the other
8 disciplining authorities, shall adopt a schedule that defines
9 appropriate ranges of sanctions that are applicable to a finding after
10 a hearing that a license holder has committed unprofessional conduct as
11 defined in this chapter or the chapters specified in RCW 18.130.040(2).
12 The schedule must identify aggravating and mitigating circumstances
13 that may enhance or reduce the sanction imposed by the disciplining
14 authority for each act of unprofessional conduct. The schedule must
15 apply to all disciplining authorities. In addition, the secretary
16 shall make provisions for instances in which there are multiple
17 findings of unprofessional conduct. When establishing the schedule,
18 the secretary shall consider maintaining consistent sanction

1 determinations that balance the protection of the public's health and
2 the rights of health care providers of the different health
3 professions.

4 **Sec. 2.** RCW 18.130.050 and 2006 c 99 s 4 are each amended to read
5 as follows:

6 The disciplining authority has the following authority:

7 (1) To adopt, amend, and rescind such rules as are deemed necessary
8 to carry out this chapter;

9 (2) To investigate all complaints or reports of unprofessional
10 conduct as defined in this chapter and to hold hearings as provided in
11 this chapter;

12 (3) To issue subpoenas and administer oaths in connection with any
13 investigation, hearing, or proceeding held under this chapter;

14 (4) To take or cause depositions to be taken and use other
15 discovery procedures as needed in any investigation, hearing, or
16 proceeding held under this chapter;

17 (5) To compel attendance of witnesses at hearings;

18 (6) In the course of investigating a complaint or report of
19 unprofessional conduct, to conduct practice reviews;

20 (7) To take emergency action ordering summary suspension of a
21 license, or restriction or limitation of the license holder's practice
22 pending proceedings by the disciplining authority. Consistent with RCW
23 18.130.370, a disciplining authority shall issue a summary suspension
24 of the license or temporary practice permit of a license holder
25 prohibited from practicing a health care profession in another state,
26 federal, or foreign jurisdiction because of an act of unprofessional
27 conduct that is substantially equivalent to an act of unprofessional
28 conduct prohibited by this chapter or any of the chapters specified in
29 RCW 18.130.040. The summary suspension remains in effect until
30 proceedings by the Washington disciplining authority have been
31 completed;

32 (8) To use a presiding officer as authorized in RCW 18.130.095(3)
33 or the office of administrative hearings as authorized in chapter 34.12
34 RCW to conduct hearings. The disciplining authority shall make the
35 final decision regarding disposition of the license unless the
36 disciplining authority elects to delegate in writing the final decision
37 to the presiding officer;

1 (9) To use individual members of the boards to direct
2 investigations. However, the member of the board shall not
3 subsequently participate in the hearing of the case;

4 (10) To enter into contracts for professional services determined
5 to be necessary for adequate enforcement of this chapter;

6 (11) To contract with licensees or other persons or organizations
7 to provide services necessary for the monitoring and supervision of
8 licensees who are placed on probation, whose professional activities
9 are restricted, or who are for any authorized purpose subject to
10 monitoring by the disciplining authority;

11 (12) To adopt standards of professional conduct or practice;

12 (13) To grant or deny license applications, and in the event of a
13 finding of unprofessional conduct by an applicant or license holder, to
14 impose (~~(any sanction)~~) sanctions in accordance with section 1 of this
15 act against a license applicant or license holder provided by this
16 chapter;

17 (14) To designate individuals authorized to sign subpoenas and
18 statements of charges;

19 (15) To establish panels consisting of three or more members of the
20 board to perform any duty or authority within the board's jurisdiction
21 under this chapter;

22 (16) To review and audit the records of licensed health facilities'
23 or services' quality assurance committee decisions in which a
24 licensee's practice privilege or employment is terminated or
25 restricted. Each health facility or service shall produce and make
26 accessible to the disciplining authority the appropriate records and
27 otherwise facilitate the review and audit. Information so gained shall
28 not be subject to discovery or introduction into evidence in any civil
29 action pursuant to RCW 70.41.200(3).

30 **Sec. 3.** RCW 18.130.160 and 2006 c 99 s 6 and 2006 c 8 s 104 are
31 each reenacted and amended to read as follows:

32 Upon a finding, after hearing, that a license holder or applicant
33 has committed unprofessional conduct or is unable to practice with
34 reasonable skill and safety due to a physical or mental condition, the
35 disciplining authority (~~(may consider the imposition of sanctions,~~
36 ~~taking into account)~~) shall issue an order including sanctions adopted
37 in accordance with the schedule adopted by the secretary in section 1

1 of this act giving proper consideration to any prior findings of fact
2 under RCW 18.130.110, any stipulations to informal disposition under
3 RCW 18.130.172, and any action taken by other in-state or out-of-state
4 disciplining authorities(~~(, and issue an)~~). The order ((providing))
5 must provide for one or any combination of the following, as directed
6 by the schedule:

- 7 (1) Revocation of the license;
- 8 (2) Suspension of the license for a fixed or indefinite term;
- 9 (3) Restriction or limitation of the practice;
- 10 (4) Requiring the satisfactory completion of a specific program of
11 remedial education or treatment;
- 12 (5) The monitoring of the practice by a supervisor approved by the
13 disciplining authority;
- 14 (6) Censure or reprimand;
- 15 (7) Compliance with conditions of probation for a designated period
16 of time;
- 17 (8) Payment of a fine for each violation of this chapter, not to
18 exceed five thousand dollars per violation. Funds received shall be
19 placed in the health professions account;
- 20 (9) Denial of the license request;
- 21 (10) Corrective action;
- 22 (11) Refund of fees billed to and collected from the consumer;
- 23 (12) A surrender of the practitioner's license in lieu of other
24 sanctions, which must be reported to the federal data bank.

25 Any of the actions under this section may be totally or partly
26 stayed by the disciplining authority. Safeguarding the public's health
27 and safety is the paramount responsibility of every disciplining
28 authority (~~and~~). In determining what action is appropriate, the
29 disciplining authority must consider the schedule adopted by the
30 secretary in section 1 of this act. Where the schedule allows
31 flexibility in determining the appropriate sanction, the disciplining
32 authority must first consider what sanctions are necessary to protect
33 or compensate the public. Only after such provisions have been made
34 may the disciplining authority consider and include in the order
35 requirements designed to rehabilitate the license holder or applicant.
36 All costs associated with compliance with orders issued under this
37 section are the obligation of the license holder or applicant.

1 The ((licensee)) license holder or applicant may enter into a
2 stipulated disposition of charges that includes one or more of the
3 sanctions of this section, but only after a statement of charges has
4 been issued and the ((licensee)) license holder has been afforded the
5 opportunity for a hearing and has elected on the record to forego such
6 a hearing. The stipulation shall either contain one or more specific
7 findings of unprofessional conduct or inability to practice, or a
8 statement by the ((licensee)) license holder acknowledging that
9 evidence is sufficient to justify one or more specified findings of
10 unprofessional conduct or inability to practice. The stipulation
11 entered into pursuant to this subsection shall be considered formal
12 disciplinary action for all purposes.

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