
SENATE BILL 5907

State of Washington

60th Legislature

2007 Regular Session

By Senator Keiser

Read first time 02/06/2007. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to mandatory reporting of unprofessional conduct;
2 and amending RCW 18.130.070 and 18.130.180.

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

4 **Sec. 1.** RCW 18.130.070 and 2006 c 99 s 2 are each amended to read
5 as follows:

6 (1)(a) The secretary shall adopt rules requiring every license
7 holder to report to the appropriate disciplining authority any
8 conviction, determination, or finding that another license holder has
9 committed an act which constitutes unprofessional conduct, or to report
10 information to the disciplining authority, an impaired practitioner
11 program, or voluntary substance abuse monitoring program approved by
12 the disciplining authority, which indicates that the other license
13 holder may not be able to practice his or her profession with
14 reasonable skill and safety to consumers as a result of a mental or
15 physical condition.

16 (b) The secretary may adopt rules to require other persons,
17 including corporations, organizations, health care facilities, impaired
18 practitioner programs, or voluntary substance abuse monitoring programs

1 approved by a disciplining authority, and state or local government
2 agencies to report:

3 (i) Any conviction, determination, or finding that a license holder
4 has committed an act which constitutes unprofessional conduct; or

5 (ii) Information to the disciplining authority, an impaired
6 practitioner program, or voluntary substance abuse monitoring program
7 approved by the disciplining authority, which indicates that the
8 license holder may not be able to practice his or her profession with
9 reasonable skill and safety to consumers as a result of a mental or
10 physical condition.

11 (c) If a report has been made by a hospital to the department
12 pursuant to RCW 70.41.210, a report to the disciplining authority is
13 not required. To facilitate meeting the intent of this section, the
14 cooperation of agencies of the federal government is requested by
15 reporting any conviction, determination, or finding that a federal
16 employee or contractor regulated by the disciplining authorities
17 enumerated in this chapter has committed an act which constituted
18 unprofessional conduct and reporting any information which indicates
19 that a federal employee or contractor regulated by the disciplining
20 authorities enumerated in this chapter may not be able to practice his
21 or her profession with reasonable skill and safety as a result of a
22 mental or physical condition.

23 (d) Reporting under this section is not required by:

24 (i) Any entity with a peer review committee, quality improvement
25 committee or other similarly designated professional review committee,
26 or by a license holder who is a member of such committee, during the
27 investigative phase of the respective committee's operations if the
28 investigation is completed in a timely manner; or

29 (ii) An impaired practitioner program or voluntary substance abuse
30 monitoring program approved by a disciplining authority under RCW
31 18.130.175 if the license holder is currently enrolled in the treatment
32 program, so long as the license holder actively participates in the
33 treatment program and the license holder's impairment does not
34 constitute a clear and present danger to the public health, safety, or
35 welfare.

36 (2) If a person fails to furnish a required report, the
37 disciplining authority may petition the superior court of the county in

1 which the person resides or is found, and the court shall issue to the
2 person an order to furnish the required report. A failure to obey the
3 order is a contempt of court as provided in chapter 7.21 RCW.

4 (3) A person is immune from civil liability, whether direct or
5 derivative, for providing information to the disciplining authority
6 pursuant to the rules adopted under subsection (1) of this section.

7 (4) Any member of a health profession listed under RCW 18.130.040
8 who has reasonable cause to believe that any other member of a health
9 profession listed under RCW 18.130.040 has engaged in unprofessional
10 conduct pursuant to RCW 18.130.180 is required to report such
11 unprofessional conduct to the agency, board, or commission responsible
12 for disciplinary activities for the person's profession under this
13 chapter. Failure to report such unprofessional conduct constitutes
14 unprofessional conduct under RCW 18.130.180. Any member of a health
15 profession listed under RCW 18.130.040 who makes such a report of
16 unprofessional conduct shall be immune from civil action for damages as
17 provided in RCW 4.24.260.

18 (5)(a) The holder of a license subject to the jurisdiction of this
19 chapter shall report to the disciplining authority:

20 (i) Any conviction, determination, or finding that he or she has
21 committed unprofessional conduct or is unable to practice with
22 reasonable skill or safety; and

23 (ii) Any disqualification from participation in the federal
24 medicare program, under Title XVIII of the federal social security act
25 or the federal medicaid program, under Title XIX of the federal social
26 security act.

27 (b) Failure to report within thirty days of notice of the
28 conviction, determination, finding, or disqualification constitutes
29 grounds for disciplinary action.

30 **Sec. 2.** RCW 18.130.180 and 1995 c 336 s 9 are each amended to read
31 as follows:

32 The following conduct, acts, or conditions constitute
33 unprofessional conduct for any license holder or applicant under the
34 jurisdiction of this chapter:

35 (1) The commission of any act involving moral turpitude,
36 dishonesty, or corruption relating to the practice of the person's
37 profession, whether the act constitutes a crime or not. If the act

1 constitutes a crime, conviction in a criminal proceeding is not a
2 condition precedent to disciplinary action. Upon such a conviction,
3 however, the judgment and sentence is conclusive evidence at the
4 ensuing disciplinary hearing of the guilt of the license holder or
5 applicant of the crime described in the indictment or information, and
6 of the person's violation of the statute on which it is based. For the
7 purposes of this section, conviction includes all instances in which a
8 plea of guilty or nolo contendere is the basis for the conviction and
9 all proceedings in which the sentence has been deferred or suspended.
10 Nothing in this section abrogates rights guaranteed under chapter 9.96A
11 RCW;

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

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

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

21 (5) Suspension, revocation, or restriction of the individual's
22 license to practice any health care profession by competent authority
23 in any state, federal, or foreign jurisdiction, a certified copy of the
24 order, stipulation, or agreement being conclusive evidence of the
25 revocation, suspension, or restriction;

26 (6) The possession, use, prescription for use, or distribution of
27 controlled substances or legend drugs in any way other than for
28 legitimate or therapeutic purposes, diversion of controlled substances
29 or legend drugs, the violation of any drug law, or prescribing
30 controlled substances for oneself;

31 (7) Violation of any state or federal statute or administrative
32 rule regulating the profession in question, including any statute or
33 rule defining or establishing standards of patient care or professional
34 conduct or practice;

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

36 (a) Not furnishing any papers or documents;

37 (b) Not furnishing in writing a full and complete explanation

1 covering the matter contained in the complaint filed with the
2 disciplining authority;

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

6 (d) Not providing reasonable and timely access for authorized
7 representatives of the disciplining authority seeking to perform
8 practice reviews at facilities utilized by the license holder;

9 (9) Failure to comply with an order issued by the disciplining
10 authority or a stipulation for informal disposition entered into with
11 the disciplining authority;

12 (10) Aiding or abetting an unlicensed person to practice when a
13 license is required;

14 (11) Violations of rules established by any health agency;

15 (12) Practice beyond the scope of practice as defined by law or
16 rule;

17 (13) Misrepresentation or fraud in any aspect of the conduct of the
18 business or profession;

19 (14) Failure to adequately supervise auxiliary staff to the extent
20 that the consumer's health or safety is at risk;

21 (15) Engaging in a profession involving contact with the public
22 while suffering from a contagious or infectious disease involving
23 serious risk to public health;

24 (16) Promotion for personal gain of any unnecessary or
25 inefficacious drug, device, treatment, procedure, or service;

26 (17) Conviction of any gross misdemeanor or felony relating to the
27 practice of the person's profession. For the purposes of this
28 subsection, conviction includes all instances in which a plea of guilty
29 or nolo contendere is the basis for conviction and all proceedings in
30 which the sentence has been deferred or suspended. Nothing in this
31 section abrogates rights guaranteed under chapter 9.96A RCW;

32 (18) The procuring, or aiding or abetting in procuring, a criminal
33 abortion;

34 (19) The offering, undertaking, or agreeing to cure or treat
35 disease by a secret method, procedure, treatment, or medicine, or the
36 treating, operating, or prescribing for any health condition by a
37 method, means, or procedure which the licensee refuses to divulge upon
38 demand of the disciplining authority;

1 (20) The willful betrayal of a practitioner-patient privilege as
2 recognized by law;

3 (21) Violation of chapter 19.68 RCW;

4 (22) Interference with an investigation or disciplinary proceeding
5 by willful misrepresentation of facts before the disciplining authority
6 or its authorized representative, or by the use of threats or
7 harassment against any patient or witness to prevent them from
8 providing evidence in a disciplinary proceeding or any other legal
9 action, or by the use of financial inducements to any patient or
10 witness to prevent or attempt to prevent him or her from providing
11 evidence in a disciplinary proceeding;

12 (23) Current misuse of:

13 (a) Alcohol;

14 (b) Controlled substances; or

15 (c) Legend drugs;

16 (24) Abuse of a client or patient or sexual contact with a client
17 or patient;

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

25 (26) Failure to report unprofessional conduct as required by RCW
26 18.130.070(4) constitutes unprofessional conduct.

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