
SENATE BILL 5257

State of Washington

66th Legislature

2019 Regular Session

By Senators Keiser, Cleveland, Dhingra, Randall, Kuderer, Darneille, Das, Hunt, Mullet, and Palumbo

Read first time 01/16/19. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to restricting the practice of female genital
2 mutilation; amending RCW 18.130.020; and reenacting and amending RCW
3 18.130.180.

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

5 **Sec. 1.** RCW 18.130.020 and 2018 c 300 s 3 are each amended to
6 read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Board" means any of those boards specified in RCW
10 18.130.040.

11 (2) "Clinical expertise" means the proficiency or judgment that a
12 license holder in a particular profession acquires through clinical
13 experience or clinical practice and that is not possessed by a lay
14 person.

15 (3) "Commission" means any of the commissions specified in RCW
16 18.130.040.

17 (4)(a) "Conversion therapy" means a regime that seeks to change
18 an individual's sexual orientation or gender identity. The term
19 includes efforts to change behaviors or gender expressions, or to
20 eliminate or reduce sexual or romantic attractions or feelings toward

1 individuals of the same sex. The term includes, but is not limited
2 to, practices commonly referred to as "reparative therapy."

3 (b) "Conversion therapy" does not include counseling or
4 psychotherapies that provide acceptance, support, and understanding
5 of clients or the facilitation of clients' coping, social support,
6 and identity exploration and development that do not seek to change
7 sexual orientation or gender identity.

8 (5) "Department" means the department of health.

9 (6) "Disciplinary action" means sanctions identified in RCW
10 18.130.160.

11 (7) "Disciplining authority" means the agency, board, or
12 commission having the authority to take disciplinary action against a
13 holder of, or applicant for, a professional or business license upon
14 a finding of a violation of this chapter or a chapter specified under
15 RCW 18.130.040.

16 (8) "Female genital mutilation" means circumcision, excision, or
17 infibulation of the whole or any part of the labia majora, labia
18 minora, or clitoris that is performed for nonmedical reasons on any:

19 (a) Patient under the age of eighteen; or

20 (b) Nonconsenting patient age eighteen or older.

21 (9) "Health agency" means city and county health departments and
22 the department of health.

23 (~~(9)~~) (10) "License," "licensing," and "licensure" shall be
24 deemed equivalent to the terms "license," "licensing," "licensure,"
25 "certificate," "certification," and "registration" as those terms are
26 defined in RCW 18.120.020.

27 (~~(10)~~) (11) "Practice review" means an investigative audit of
28 records related to the complaint, without prior identification of
29 specific patient or consumer names, or an assessment of the
30 conditions, circumstances, and methods of the professional's practice
31 related to the complaint, to determine whether unprofessional conduct
32 may have been committed.

33 (~~(11)~~) (12) "Secretary" means the secretary of health or the
34 secretary's designee.

35 (~~(12)~~) (13) "Standards of practice" means the care, skill, and
36 learning associated with the practice of a profession.

37 (~~(13)~~) (14) "Unlicensed practice" means:

38 (a) Practicing a profession or operating a business identified in
39 RCW 18.130.040 without holding a valid, unexpired, unrevoked, and
40 unsuspended license to do so; or

1 (b) Representing to a consumer, through offerings,
2 advertisements, or use of a professional title or designation, that
3 the individual is qualified to practice a profession or operate a
4 business identified in RCW 18.130.040, without holding a valid,
5 unexpired, unrevoked, and unsuspended license to do so.

6 **Sec. 2.** RCW 18.130.180 and 2018 c 300 s 4 and 2018 c 216 s 2 are
7 each reenacted and amended to read as follows:

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

11 (1) The commission of any act involving moral turpitude,
12 dishonesty, or corruption relating to the practice of the person's
13 profession, whether the act constitutes a crime or not. If the act
14 constitutes a crime, conviction in a criminal proceeding is not a
15 condition precedent to disciplinary action. Upon such a conviction,
16 however, the judgment and sentence is conclusive evidence at the
17 ensuing disciplinary hearing of the guilt of the license holder of
18 the crime described in the indictment or information, and of the
19 person's violation of the statute on which it is based. For the
20 purposes of this section, conviction includes all instances in which
21 a plea of guilty or nolo contendere is the basis for the conviction
22 and all proceedings in which the sentence has been deferred or
23 suspended. Nothing in this section abrogates rights guaranteed under
24 chapter 9.96A RCW;

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

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

28 (4) Incompetence, negligence, or malpractice which results in
29 injury to a patient or which creates an unreasonable risk that a
30 patient may be harmed. The use of a nontraditional treatment by
31 itself shall not constitute unprofessional conduct, provided that it
32 does not result in injury to a patient or create an unreasonable risk
33 that a patient may be harmed;

34 (5) Suspension, revocation, or restriction of the individual's
35 license to practice any health care profession by competent authority
36 in any state, federal, or foreign jurisdiction, a certified copy of
37 the order, stipulation, or agreement being conclusive evidence of the
38 revocation, suspension, or restriction;

1 (6) Except when authorized by RCW 18.130.345, the possession,
2 use, prescription for use, or distribution of controlled substances
3 or legend drugs in any way other than for legitimate or therapeutic
4 purposes, diversion of controlled substances or legend drugs, the
5 violation of any drug law, or prescribing controlled substances for
6 oneself;

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

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

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

14 (b) Not furnishing in writing a full and complete explanation
15 covering the matter contained in the complaint filed with the
16 disciplining authority;

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

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

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

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

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

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

31 (13) Misrepresentation or fraud in any aspect of the conduct of
32 the business or profession;

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

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

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

1 (17) Conviction of any gross misdemeanor or felony relating to
2 the practice of the person's profession. For the purposes of this
3 subsection, conviction includes all instances in which a plea of
4 guilty or nolo contendere is the basis for conviction and all
5 proceedings in which the sentence has been deferred or suspended.
6 Nothing in this section abrogates rights guaranteed under chapter
7 9.96A RCW;

8 (18) The procuring, or aiding or abetting in procuring, a
9 criminal abortion;

10 (19) The offering, undertaking, or agreeing to cure or treat
11 disease by a secret method, procedure, treatment, or medicine, or the
12 treating, operating, or prescribing for any health condition by a
13 method, means, or procedure which the licensee refuses to divulge
14 upon demand of the disciplining authority;

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

17 (21) Violation of chapter 19.68 RCW;

18 (22) Interference with an investigation or disciplinary
19 proceeding by willful misrepresentation of facts before the
20 disciplining authority or its authorized representative, or by the
21 use of threats or harassment against any patient or witness to
22 prevent them from providing evidence in a disciplinary proceeding or
23 any other legal action, or by the use of financial inducements to any
24 patient or witness to prevent or attempt to prevent him or her from
25 providing evidence in a disciplinary proceeding;

26 (23) Current misuse of:

27 (a) Alcohol;

28 (b) Controlled substances; or

29 (c) Legend drugs;

30 (24) Abuse of a client or patient or sexual contact with a client
31 or patient;

32 (25) Acceptance of more than a nominal gratuity, hospitality, or
33 subsidy offered by a representative or vendor of medical or health-
34 related products or services intended for patients, in contemplation
35 of a sale or for use in research publishable in professional
36 journals, where a conflict of interest is presented, as defined by
37 rules of the disciplining authority, in consultation with the
38 department, based on recognized professional ethical standards;

39 (26) Violation of RCW 18.130.420;

- 1 (27) Performing conversion therapy on a patient under age
- 2 eighteen;
- 3 (28) Performing female genital mutilation.

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