

Legislative Analysis



ALTERNATIVE REMEDIATION

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House Bill 6687

Sponsor: Rep. Edward Gaffney, Jr.

Committee: Senior Health, Security, and Retirement

Complete to 12-4-06

A SUMMARY OF HOUSE BILL 6687 AS INTRODUCED 11-30-06

The bill would amend Part 161 of the Public Health Code dealing with health occupations to create an alternative remediation program for individuals who have a "practice deficiency." This would be a nondisciplinary intervention program intended as an alternative to formal disciplinary action, and would have to include a mechanism for monitoring health professionals admitted into the program. The Department of Community Health would designate an administrator to operate the program.

The term "practice deficiency" would mean a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for a health profession as a result of a deficit in knowledge, skills, abilities, or judgment.

Identification of health professionals. Under the bill, an individual licensed or registered under the health code, an employer of a licensee or registrant, or a health facility or agency could submit a written report to the Department of Community Health if they have cause to believe that another licensee or registrant may have a practice deficiency or committed a health code violation. The report would identify the individual, describe the facts or the basis for the allegation, and include contact information for the person making the report. Also, a licensee or registrant could voluntarily submit a request to participate in the program.

Upon receipt of the report, the DCH, in consultation with the appropriate licensing board, would investigate and determine if the licensee or registrant has a practice deficiency it reasonably believes can be corrected through remediation. The licensing board could abstain from taking formal disciplinary action if the person is eligible for alternative remediation.

Remediation agreement plan. An eligible health professional entering into the program would have to enter into a remediation agreement plan that includes: a description of the identified practice deficiency; the specific remediation to be completed, including educational providers and time frame; a requirement the participant pay all expenses; a requirement that the participant notify employers; an agreement not to practice in any other jurisdiction during the term of the agreement without prior authorization from that jurisdiction and the remediation program administrator; a monitoring plan with progress reports; signed waivers to secure necessary reports; expectations for successful completion of the program; and grounds for termination from the program.

Failure to complete. The individual would be subject to disciplinary action under the code if he or she failed to complete the program or failed to comply with the terms of the remediation plan, or if the licensing board determined that remediation cannot correct the deficiency.

Confidentiality. The identity of the person submitting information to the DCH regarding suspected practice deficiencies would be confidential. The identity of a health professional participating in and successfully completes the remediation program would be confidential and not subject to disclosure under discovery or subpoena, and would not be subject to the Freedom of Information Act.

If a health professional successfully completes a remediation plan, the department would destroy all records pertaining to the practice deficiency, including records of participation in the treatment plan, three years after the department's determination.

Rules establishing program. The DCH would be required to promulgate rules for the alternative remediation program covering: criteria for use in identifying an individual's practice deficiency; eligibility requirements for admission into the program; standards and procedures for prescribing remediation; terms and conditions that must be for success in completing a plan; procedures for referral and reporting of individuals to the program; procedures for monitoring remediation; procedures for maintaining confidential records; and other necessary program features.

FISCAL IMPACT:

House Bill 6687 would have fiscal implications for state government. It establishes a new Alternative Remediation Program as a voluntary program for certain health professionals under DCH. DCH will incur costs including rule-making, initial setup, ongoing administration and operations of the program, receipt of reports, etc. There may be some overlap with existing licensing board system regulatory functions which may minimize some of the new costs. The bill requires that a participant pay all expenses incurred as a result of the remediation. The volume of participation will affect the ongoing cost of the program.

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