

NEW SECTION. Section 1. There is added to chapter 53.08 RCW a new section to read as follows:

Whenever any action, claim or proceeding is instituted against any person who is or was an officer, employee, or agent of a port district established under this title arising out of the performance or failure of performance of duties for, or employment with any such district, the commission of the district may grant a request by such person that the attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the district's funds: PROVIDED, That costs of defense and/or judgment or settlement against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his employment with or duties for the district.

NEW SECTION. Sec. 2. There is added to chapter 54.16 RCW a new section to read as follows:

Whenever any action, claim or proceeding is instituted against any person who is or was an officer, employee, or agent of a public utility district established under this title arising out of the performance or failure of performance of duties for, or employment with any such district, the commission of the district may grant a request by such person that the attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the district's funds: PROVIDED, That costs of defense and/or judgment or settlement against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his employment with or duties for the district.

Passed the House February 17, 1975.

Passed the Senate March 10, 1975.

Approved by the Governor April 5, 1975.

Filed in Office of Secretary of State April 5, 1975.

CHAPTER 61

[Engrossed Senate Bill No. 2058]

MEDICAL DISCIPLINARY PROCEEDINGS

AN ACT Relating to medical disciplinary proceedings; amending section 3, chapter 202, Laws of 1955 as amended by section 1, chapter 142, Laws of 1963 and RCW 18.72.030; amending section 15, chapter 202, Laws of 1955, and RCW 18.72.150; and adding new sections to chapter 202, Laws of 1955 and to chapter 18.72 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 3, chapter 202, Laws of 1955 as amended by section 1, chapter 142, Laws of 1963 and RCW 18.72.030 are each amended to read as follows:

The term "unprofessional conduct" as used in this chapter and RCW 18.71-.120 and 18.71.140 shall mean the following items or any one or combination thereof:

~~(1) ((Conviction in any court of any offense))~~ The commission of any act involving moral turpitude, ((in which case the record of)) dishonesty, or corruption, whether the same be committed in the course of his or her relations as a physician, or otherwise, and whether the same constitutes a crime or not; and if the act constitutes a crime, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon such conviction, however, the judgment and sentence shall be conclusive evidence at the ensuing disciplinary hearing of the guilt of the respondent physician of the crime described in the indictment or information, and of his or her violation of the statute upon which it is based;

(2) The procuring, or aiding or abetting in procuring a criminal abortion;

(3) ~~((Fraud or deceit))~~ Misrepresentation or concealment of a material fact in the obtaining of a license to practice medicine or in reinstatement thereof;

(4) All advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons and so be harmful or injurious to public morals or safety;

~~(5) ((All advertising of any medicine or of any means whereby the monthly period of women can be regulated or the menses reestablished if suppressed;~~

~~(6))~~ The ((personation)) impersonation of another licensed practitioner;

~~((7))~~ (6) Habitual intemperance;

~~((8) The use or prescription for use of narcotic drugs, or dangerous drugs as described in RCW 69.40.060, in any way other than for therapeutic purposes;~~

~~(9))~~ (7) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for therapeutic purposes;

(8) The offering, undertaking, or agreeing to cure to treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any human condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the board;

~~((10) The wilful betrayal of a professional secret;~~

~~(11) Repeated acts of immorality, or repeated acts of gross misconduct in the practice of the profession;~~

~~(12))~~ (9) Unprofessional conduct as defined in chapter 19.68 RCW;

~~((13))~~ (10) Aiding or abetting an unlicensed person to practice medicine; ((or

~~(14) Declaration of mental incompetency by a court of competent jurisdiction:))~~

(11) Suspension or revocation of the physician's license to practice medicine by competent authority in any state, federal, or foreign jurisdiction;

(12) Gross incompetency in the practice of medicine and surgery;

(13) Violation of any board rule or regulation fixing a standard of professional conduct;

(14) Wilful violation of section 2 of this amendatory act or wilful disregard of the subpoena or notice of the Washington state medical disciplinary board; or

(15) Gross, wilful, and continued overcharging for professional services.

NEW SECTION. Sec. 2. There is added to chapter 202, Laws of 1955 and to chapter 18.72 RCW a new section to read as follows:

It shall be the duty and obligation of a physician against whom a complaint is made and who is being investigated by the medical disciplinary board to cooperate with the board as requested by it by:

- (1) Furnishing any papers or documents;
- (2) Furnishing in writing a full and complete explanation covering the matter contained in such complaint;
- (3) Appearing before the board at the time and place designated.

Should such physician fail to cooperate with the board in the manner herein provided, such conduct shall be deemed to be unprofessional conduct.

NEW SECTION. Sec. 3. There is added to chapter 202, Laws of 1955 and to chapter 18.72 RCW a new section to read as follows:

(1) In the event that a physician is determined by a court of competent jurisdiction to be mentally incompetent or mentally ill, such physician shall automatically have his or her license suspended by the board upon the entry of such judgment, regardless of the pendency of an appeal.

(2) If it appears to the disciplinary board that there is reasonable cause to believe that a physician who has not been judicially determined to be mentally incompetent or mentally ill is unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition, a complaint in the name of the board shall be served upon such physician for a hearing on the sole issue of the capacity of the physician to adequately conduct his or her practice. In enforcing this paragraph the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by two or more physicians designated by the board and at least one of whom may be designated by the charged party if he or she chooses. Failure of a physician to submit to such examination when directed constitutes grounds for immediate suspension of such physician's license, unless the failure was due to circumstances beyond his or her control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

For the purpose of this subsection (2), every physician licensed under this chapter who shall accept the privilege to practice medicine in this state shall by so practicing or by the making and filing of annual registration to practice medicine in this state, be deemed to have given his or her consent to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication.

In any proceeding under this subsection (2), neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding.

Sec. 4. Section 15, chapter 202, Laws of 1955, and RCW 18.72.150 are each amended to read as follows:

The board shall have the following powers and duties:

- (1) To adopt, amend and rescind such rules and regulations as it deems necessary to carry out the provisions of this chapter;
- (2) To investigate all complaints and charges of unprofessional conduct against any holder of a license and to hold hearings to determine whether such charges are substantiated or unsubstantiated;
- (3) To employ necessary stenographic or clerical help;
- (4) To issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter;
- (5) To take or cause depositions to be taken as needed in any investigation, hearing, or proceeding;
- (6) To investigate complaints and charges of malpractice and unsafe conditions and practices, to analyze equipment, procedures, and training, in such cases, and to direct corrective action.

Passed the Senate March 11, 1975.

Passed the House March 7, 1975.

Approved by the Governor April 5, 1975.

Filed in Office of Secretary of State April 5, 1975.

CHAPTER 62

[Engrossed Senate Bill No. 2105] MOTOR VEHICLES—DEFINITIONS— RULES OF THE ROAD

AN ACT Relating to motor vehicles and their operation upon highways; amending section 36.75.010, chapter 4, Laws of 1963 as amended by section 1, chapter 182, Laws of 1969 ex. sess. and RCW 36.75.010; amending section 46.04.080, chapter 12, Laws of 1961 and RCW 46.04.080; amending section 46.04.100, chapter 12, Laws of 1961 and RCW 46.04.100; amending section 46.04.220, chapter 12, Laws of 1961 and RCW 46.04.220; amending section 46.04.350, chapter 12, Laws of 1961 and RCW 46.04.350; amending section 46.04.370, chapter 12, Laws of 1961 as amended by section 1, chapter 32, Laws of 1967 and RCW 46.04.370; amending section 46.04.560, chapter 12, Laws of 1961 and RCW 46.04.560; amending section 46.04.650, chapter 12, Laws of 1961 and RCW 46.04.650; amending section 46.52.020, chapter 12, Laws of 1961 as amended by section 53, chapter 32, Laws of 1967 and RCW 46.52.020; amending section 46.52.080, chapter 12, Laws of 1961 as last amended by section 58, chapter 32, Laws of 1967 and RCW 46.52.080; amending section 3, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.015; amending section 7, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.050; amending section 8, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.055; amending section 9, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.060; amending section 10, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.065; amending section 16, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.105; amending section 18, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.115; amending section 22, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.135; amending section 27, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.160; amending section 28, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.180; amending section 30, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.190; amending section 40, chapter 155, Laws of 1965 ex. sess. as amended by section 61, chapter 281, Laws of 1969 ex. sess. and RCW 46.61.290; amending section 41, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.295; amending section 43, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.305; amending section 48, chapter 155, Laws of 1965 ex. sess. as amended by section 7, chapter 100, Laws of 1970 ex. sess. and RCW 46.61.350; amending section 49, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.355; amending section 46.48.046, chapter 12, Laws of 1961 and RCW 46.61.435; amending section 46.48.023, chapter 12, Laws of 1961 as amended by section 5, chapter 16, Laws of 1963 and RCW 46.61.440; amending section 66, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.570; amending section 67, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.575; amending section 70, chapter 155, Laws of 1965 ex. sess. as amended by section 5, chapter 232, Laws of 1967 and RCW 46.61.610; amending section 75, chapter 155, Laws of 1965 ex. sess.