

By vetoing section 3 of this bill, I am leaving intact a certification approach for respiratory care practitioners. However, I am rejecting the licensing approach for the reasons set forth above.

With the exception of section 3, Substitute House Bill No. 767 is approved."

CHAPTER 416

[Engrossed Substitute Senate Bill No. 5857]
IMPAIRED PHYSICIAN PROGRAM

AN ACT Relating to the professional discipline of physicians; adding new sections to chapter 18.72 RCW; adding a new section to chapter 42.17 RCW; making an appropriation; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 2 through 6 of this act.

(1) "Board" means the medical disciplinary board of this state.

(2) "Committee" means a nonprofit corporation formed by physicians who have expertise in the areas of alcoholism, drug abuse, or mental illness and who broadly represent the physicians of the state and that has been designated to perform any or all of the activities set forth in section 2(1) of this act pursuant to rules adopted by the board under chapter 34.04 RCW.

(3) "Impaired" or "impairment" means the presence of the diseases of alcoholism, drug abuse, or mental illness.

(4) "Impaired physician program" means the program for the detection, intervention, and monitoring of impaired physicians established by the board pursuant to section 2(1) of this act.

(5) "Physician" means a person licensed under chapter 18.71 RCW.

(6) "Treatment program" means a plan of care and rehabilitation services provided by those organizations or persons authorized to provide such services to be approved by the board for impaired physicians taking part in the impaired physician program created by section 2 of this act.

NEW SECTION. Sec. 2. (1) The board shall enter into a contract with the committee to implement an impaired physician program. The impaired physician program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired physicians to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired physicians including those ordered by the board;

(f) Providing post-treatment monitoring and support of rehabilitative impaired physicians; and

(g) Performing such other activities as agreed upon by the board and the committee.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to fifteen dollars on each license renewal or issuance of a new license to be collected by the department of licensing from every physician and surgeon licensed under chapter 18.71 RCW in addition to other license fees and the medical discipline assessment fee established under RCW 18.72.380. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired physician program.

NEW SECTION. Sec. 3. The committee shall develop procedures in consultation with the board for:

(1) Periodic reporting of statistical information regarding impaired physician activity;

(2) Periodic disclosure and joint review of such information as the board may deem appropriate regarding reports received, contacts or investigations made, and the disposition of each report: PROVIDED, That the committee shall not disclose any personally identifiable information except as provided in subsections (3) and (4) of this section;

(3) Immediate reporting to the board of the name and results of any contact or investigation regarding any impaired physician who is believed to constitute an imminent danger to the public;

(4) Reporting to the board, in a timely fashion, any impaired physician who refuses to cooperate with the committee, refuses to submit to treatment, or whose impairment is not substantially alleviated through treatment, and who, in the opinion of the committee, is unable to practice medicine with reasonable skill and safety. However, impairment, in and of itself, shall not give rise to a presumption of the inability to practice medicine with reasonable skill and safety;

(5) Informing each participant of the impaired physician program of the program procedures, the responsibilities of program participants, and the possible consequences of noncompliance with the program.

NEW SECTION. Sec. 4. If the board has reasonable cause to believe that a physician is impaired, the board shall cause an evaluation of such physician to be conducted by the committee or the committee's designee or the board's designee for the purpose of determining if there is an impairment. The committee or appropriate designee shall report the findings of its evaluation to the board.

***NEW SECTION.** Sec. 5. *All committee records pertaining to the impaired physician program shall be kept confidential and are not subject to discovery or subpoena or admissible in any legal proceeding. Such records are not subject to disclosure pursuant to chapter 42.17 RCW. No person in*

attendance at any meeting of the committee may be required to testify as to any committee discussions or proceedings.

*Sec. 5 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 6. All committee records are not subject to disclosure pursuant to chapter 42.17 RCW.

NEW SECTION. Sec. 7. A new section is added to chapter 42.17 RCW to read as follows:

The disclosure requirements of this chapter shall not apply to records of the committee obtained in an action under sections 1 through 7 of this act.

NEW SECTION. Sec. 8. Sections 1 through 6 of this act are each added to chapter 18.72 RCW.

NEW SECTION. Sec. 9. The sum of five hundred one thousand two hundred dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the health professions account to the department of licensing for the purposes of this act.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987.

Passed the Senate April 20, 1987.

Passed the House April 13, 1987.

Approved by the Governor May 18, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 5, Engrossed Substitute Senate Bill No. 5857, entitled:

"AN ACT Relating to the professional discipline of physicians."

I support this legislation which develops a rehabilitation program for health care professionals impaired by alcohol or drugs. Section 5, however, restricts the ability of the Department of Licensing to provide the best possible protection to the public. By limiting the use of the committee's records in legal proceedings, it would prohibit the Medical Disciplinary Board from being able to use the records when a physician had failed to cooperate or complete a treatment program. This would pose an unnecessary threat to the consumer. Section 6, which I am leaving in the bill, does protect the physician from general public disclosure.

With the exception of section 5, Engrossed Substitute Senate Bill No. 5857 is approved."