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## Health Care & Wellness Committee

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### HB 1718

**Brief Description:** Concerning well-being programs for certain health care professionals.

**Sponsors:** Representatives Thai, Shavers, Parshley, Zahn and Scott.

**Brief Summary of Bill**

- Exempts, under certain circumstances, physician well-being programs from mandatory reporting requirements.
- Protects physician well-being program records from disclosure under certain circumstances.

**Hearing Date:** 2/12/25

**Staff:** Jim Morishima (786-7191).

**Background:**

A licensed health professional is required to report to the appropriate disciplining authority conduct by another provider that may constitute unprofessional conduct. The provider is also required to report to the disciplining authority (or a voluntary substance use disorder monitoring program such as the Physicians Health Program) when another provider is potentially unable to practice with reasonable skill and safety to consumers as a result of a mental or physical condition. Under rules adopted by the Department of Health, other persons and entities must make similar reports, including health care institutions, insurers, and employers.

Certain entities are exempt from the reporting requirement, including certain voluntary substance abuse monitoring programs, such as the Physicians Health Program, while the provider is actively participating in the program. The exemption does not apply if the provider's conduct constitutes a clear and present danger to the public health, safety, or welfare. Program records

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relating to the programs are generally confidential.

### **Summary of Bill:**

A physician well-being program is exempt from the requirement of reporting potential unprofessional conduct or inability to practice with reasonable skill and safety if the provider is competent to practice with reasonable skill and safety. If the provider is not competent to practice with reasonable skill and safety, or if a patient has been harmed, the provider must be reported to the provider's disciplining authority or, if permitted, to a physicians health program or voluntary substance use disorder monitoring program.

Physician well-being program records relating to program participants created specifically for, and collected and maintained by the program, are confidential and exempt from disclosure. The records are not subject to discovery by subpoena or admissible as evidence. This privilege does not protect information, communications, or documents available from other original sources and does not protect any document outside the scope of the privilege. The information subject to the privilege may not be reasonably discoverable from other non-privileged sources. The privilege does not apply to the program's organizing documents or contracts establishing the program.

The privilege does not apply to information introduced into evidence in any civil action by the provider regarding the provider's participation in the program, the restriction of the provider's staff privileges due to a mandatory report, or termination of the provider's employment due to a mandatory report.

A physician well-being program is defined as a formal program established for the purpose of addressing issues related to career fatigue and well-being in physicians, osteopathic physicians, and physician assistants that:

- uses primarily one-on-one, peer-to-peer interactions and connects participants to physical and behavioral health resources and professional supports when appropriate;
- is limited to no more than three sessions per participant every 12 months;
- may include discussions pertaining to career fatigue and wellness arising from the participant's professional obligations, but not for other purposes such as evaluation, discipline, quality improvement, or the identification and prevention of malpractice;
- is established in writing or contracted for, in advance of peer-to-peer interactions or referrals, by an employer of physicians and physician assistants, a nonprofit professional medical association representing a specialty of physicians, or a statewide organization representing physicians and physician assistants;
- does not allow as participants any person employed by, or with a financial interest in, the program; and
- does not include the monitoring of physicians who may be unable to practice medicine with reasonable skill and safety.

A quality improvement program is not a physician well-being program.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.