

ENROLLED ACT NO. 50, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
2018 BUDGET SESSION

AN ACT relating to health care providers; specifying that health care licensing boards may discipline licensees for sexual misconduct; clarifying offenses relating to sexual assault; revising provisions relating to the expungement of misdemeanor sexual offenses committed by health care providers; clarifying grounds for physician and physician assistant discipline; requiring specified licensing boards to conduct a review of existing rules relating to health care providers; requiring specified licensing boards to amend existing rules as necessary; repealing provisions; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 33-1-118 is created to read:

**33-1-118. Health care licensing boards; authority to discipline licensees for sexual misconduct.**

(a) A board which licenses health care providers may refuse to issue or renew, or may suspend or revoke the license, certificate or temporary permit of any licensee or certificate holder, or otherwise discipline a licensee or certificate holder, upon clear and convincing evidence that the licensee or certificate holder has committed sexual misconduct.

(b) As used in this section:

(i) "Health care provider" means an individual who is licensed, certified or otherwise authorized or permitted by the laws of this state to provide care, treatment, services or procedures to maintain, diagnose or otherwise treat a patient's physical or mental condition;

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(ii) "Sexual misconduct" means:

(A) Any behavior by a licensee that involves offers of exchange of medical services for some form of sexual gratification; or

(B) Sexual contact or sexual intrusion, as defined in W.S. 6-2-301(a), that occurs while the patient is under the care of the licensee.

**Section 2.** W.S. 6-2-301(a)(iv), by creating a new paragraph (ix) and by renumbering (ix) as (x), 6-2-303(b), 7-13-1501(a)(intro), by creating a new paragraph (iv) and (m) by creating a new paragraph (iv) and 33-26-402(a) by creating a new paragraph (xxxv) are amended to read:

**6-2-301. Definitions.**

(a) As used in this article:

(iv) "Position of authority" means that position occupied by a parent, guardian, relative, household member, teacher, employer, custodian, health care provider or any other person who, by reason of his position, is able to exercise significant influence over a person;

(ix) "Health care provider" means an individual who is licensed, certified or otherwise authorized or permitted by the laws of this state to provide care, treatment, services or procedures to maintain, diagnose or otherwise treat a patient's physical or mental condition;

~~(ix)~~(x) "This article" means W.S. 6-2-301 through 6-2-320.

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**6-2-303. Sexual assault in the second degree.**

(b) A person is guilty of sexual assault in the second degree if he subjects another person to:

(i) Sexual contact or sexual intrusion in the person's capacity as a health care provider in the course of providing care, treatment, services or procedures to maintain, diagnose or otherwise treat a patient's physical or mental condition;

(ii) Sexual contact and causes serious bodily injury to the victim under any of the circumstances listed in W.S. 6-2-302(a)(i) through (iv) or paragraphs (a)(i) through (vii) and (ix) of this section.

**7-13-1501. Petition for expungement of records of conviction of certain misdemeanors; filing fee; notice; objections; hearing; definitions; exceptions.**

(a) A person who has ~~pleaded~~pled guilty or nolo contendere to or been convicted of a misdemeanor may petition the convicting court for an expungement of the records of conviction, subject to the following limitations:

(iv) A health care provider who has pled guilty or nolo contendere to or has been convicted of an offense punishable under W.S. 6-2-313 which was committed against a patient under the care of the health care provider shall not be eligible for an expungement of the records of conviction.

(m) As used in this section:

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(iv) "Health care provider" means an individual who is licensed, certified or otherwise authorized or permitted by the laws of this state to provide care, treatment, services or procedures to maintain, diagnose or otherwise treat a patient's physical or mental condition.

**33-26-402. Grounds for suspension; revocation; restriction; imposition of conditions; refusal to renew or other disciplinary action.**

(a) The board may refuse to renew, and may revoke, suspend or restrict a license or take other disciplinary action, including the imposition of conditions or restrictions upon a license on one (1) or more of the following grounds:

(xxxiv) Violating any final order, consent decree or stipulation between the board and the licensee;~~;~~

(xxxv) Any behavior by a licensee toward a patient, former patient, another licensee, an employee of a health care facility, an employee of the licensee or a relative or guardian of a patient that exploits the position of trust, knowledge, emotions or influence of the licensee.

**Section 3.** W.S. 6-2-303(a)(viii), 33-25-111(a)(xx), 33-26-102(a)(xiii) and 33-26-402(a)(vii) are repealed.

**Section 4.**

(a) Before July 1, 2019, each licensing board with the authority to license, supervise and discipline health care providers shall:

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(i) Conduct a review of existing rules relating to standards of care and the use of chaperones and other persons to ensure patient safety and protection, including in cases where an intimate portion of a patient's body is being examined by a health care provider; and

(ii) Promulgate new rules or amendments to existing rules which are deemed necessary by the board for patient safety and protection, based on the review conducted pursuant to paragraph (i) of this subsection.

(b) As used in this section, "health care provider" means an individual who is licensed, certified or otherwise authorized or permitted by the laws of this state to provide care, treatment, services or procedures to maintain, diagnose or otherwise treat a patient's physical or mental condition.

**Section 5.**

(a) Section 4 of this act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

ORIGINAL HOUSE  
BILL NO. HB0157

ENGROSSED

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(b) Except as otherwise provided in subsection (a) of this section, this act is effective July 1, 2018.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk