

THE UNIFORM DISCIPLINARY ACT (UDA)

INTRODUCTION

Your certification is a personal property right, and as such, may be removed through "due process" for violations of the Uniform Disciplinary Act (UDA). When you are applying for certification, it is critical that you complete the application yourself, and that you answer all questions accurately. Please do not copy or modify the application form, including the Part D Confidential form. An altered, incomplete, or incorrectly completed application cannot be processed and will delay your possible certification.

1. **What is the UDA?**

RCW 18.130, or the *Uniform Disciplinary Act* (UDA), consists of laws governing the licensure and discipline procedures for health and health-related professionals and businesses. These rules and regulations strengthen and consolidate disciplinary procedures for licensed and certified health and health care-related professions and agencies.

2. **What is the intent of the UDA?**

The legislature created the UDA to provide standardized procedures for the enforcement of laws so as to assure the public of adequate professional competence and conduct by health care providers.

3. **Is the UDA something new?**

The UDA has been in place for health care professionals since 1986. In 1992, the legislature incorporated EMS personnel into the UDA.

4. **Who has the authority to enforce the UDA?**

The "disciplinary authority" has the responsibility for enforcement. The disciplinary authority means the Department of Health (DOH) or board, such as the Medical Quality Assurance Commission.

5. **What are other functions of the agency or commission under the UDA?**

- A. To grant or deny licenses/certification.
- B. The DOH may enter into a contract with certified personnel for substance abuse treatment and monitoring. In this fashion, the certified person may be afforded the opportunity to continue his/her practice. In the past, individuals would have had their certification suspended.

6. **In considering the UDA, what kind of questions must the DOH ask when certifying or recertifying personnel?**

- A. The DOH must require sufficient information from the individual that would demonstrate his/her ability to comply with the standards, rules and regulations.
- B. The DOH must determine no visible threat to public health and safety before certifying or recertifying applicants.

Examples of these questions are as follows:

- 1. Have you ever been found in any proceeding to have violated any state or federal law or rule regarding the practice of a health care profession?
- 2. Have you ever been convicted of abusing a child, developmentally disabled person or vulnerable adult?

7. **What are the conditions where a license/certification may be restricted, denied or revoked?**

- A. Commission of any act involving moral turpitude, dishonesty, or corruption relating to the nature of the person's profession (whether the act constitutes a crime or not).
- B. Misrepresentation or concealment of information in obtaining a license/certification.
- C. False or fraudulent advertising.
- D. Incompetence, negligence or malpractice which results in injury to the patient.
- E. Suspension of a license in any state.
- F. The possession, use, prescription for use or distribution of controlled substances or legend drugs.
- G. Violation of any state or federal law regulating the profession.
- H. Failure to cooperate with the disciplinary authority.
- I. Failure to comply with an order by the disciplinary authority.
- J. Performing beyond the scope of practice.
- K. Misrepresentation or fraud.

L. Failure to adequately supervise staff to the extent of placing health and safety at risk.

M. Contact with the public while suffering from a contagious or infectious disease that involves a serious risk to public health.

N. Conviction of any gross misdemeanor or felony relating to the practice of a person's profession.

O. Involvement in criminal abortion.

P. Agreeing to cure or treat a disease by a secret method.

Q. Willful betrayal of practitioner/patient privilege.

R. Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts.

S. Current misuse of alcohol or drugs.

T. Abuse of a client or patient, or sexual contact with the patient or client.

8. *What is the responsibility of an agency or individual to report violations of the UDA?*

According to the UDA, agencies whose employee(s) may have engaged in A through T above are required to bring such matters to the attention of the DOH, specifically, EMS Licensing and Certification (the "disciplinary authority"), within 30 days. The act also requires any person, not just agencies, to bring matters to the attention of the DOH. Any person means also reporting yourself.

9. *Is there any legal protection for individuals acting on behalf of the agency or commission?*

Yes, members of commissions or individuals such as the Medical Program Director (MPD) are immune from liability in any action, civil or criminal, based on any disciplinary proceeding so long as it's within their duties and responsibilities.

10. *Is there any protection for individuals who bring a complaint to the attention of the DOH regarding unprofessional conduct or inability to practice with reasonable skill and safety?*

Individuals providing such information in good faith to the DOH are granted immunity from civil liability.

11. *How is a complaint brought against a health care professional licensed or certified in this state?*

If someone believes they have been treated, or observed someone being treated in an unprofessional, unskilled way, or that the health care provider was impaired, they have a right to bring these concerns before the disciplinary authority.

12. *What is the complaint process?*

When a complaint is received, either in writing or over the phone, followed in writing, it is recorded and analyzed to determine if the DOH has the authority over the complaint. If so, an investigation is conducted to determine if there is sufficient evidence to proceed with legal action. If there is, a Statement of Charges or a Stipulated Performance Agreement will be prepared by the Attorney General's Office to be carried out by the DOH.

13. *Does the licensee or certified person have any recourse in this matter?*

Yes, the person may enter into a Stipulated Performance Agreement in lieu of a hearing. The other possibility is to request a formal hearing in 20 days or less wherein the person may contest the allegation(s) contained in the Statement of Charges.

14. *Who are the routine participants in the disciplinary process?*

A. The person(s) who is providing the complaint, which may be the MPD.

B. The person whose conduct or performance is identified in the complaint.

C. The person's supervisor, and most likely the MPD.

D. The DOH Investigations Unit.

E. The DOH EMS Licensing and Certification Section.

F. The State Attorney General.

G. The Judge.

Summary: The intent of the DOH is to enforce the UDA. However, it is also the intent of the DOH to ensure that all persons are afforded rights under the Administrative Procedures Act (APA) which assures "due process". The best protection providers have is to practice within their scope of care; follow medical protocols and procedures; and assure thorough and accurate documentation of the care provided.

If you have any questions on the UDA, please contact:

EMS Licensing and Certification Section
(360) 236-2845 or 1-800-458-5281, Ext. #1