

## HOUSE BILL NO. HB0157

Health care providers-sexual assault protections-2.

Sponsored by: Representative(s) Bovee, Barlow, Blake,  
Connolly, Dayton, Gierau, Harshman, Loucks  
and Wilson and Senator(s) Anselmi-Dalton,  
Boner, Ellis, Landen and Nethercott

A BILL

for

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

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

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

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3           **33-1-118. Health care licensing boards; authority to**  
4 **discipline licensees for sexual misconduct.**

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

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14           (b) As used in this section:

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

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22           (ii) "Sexual misconduct" means:

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

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

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9           **Section 2.** W.S. 6-2-301(a)(iv), by creating a new  
10 paragraph (ix) and by renumbering (ix) as (x), 6-2-303(b),  
11 7-13-1501(a)(intro), by creating a new paragraph (iv) and  
12 (m) by creating a new paragraph (iv) and 33-26-402(a) by  
13 creating a new paragraph (xxxv) are amended to read:

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15           **6-2-301. Definitions.**

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17           (a) As used in this article:

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

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(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.

**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 inflicts sexual intrusion in the course of treatment or examination of a victim for purposes or in a manner substantially inconsistent with reasonable medical practices;

(ii) Sexual contact and causes serious bodily injury to the victim under any of the circumstances listed

1 in W.S. 6-2-302(a)(i) through (iv) or paragraphs (a)(i)  
2 through (vii) and (ix) of this section.

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4 **7-13-1501. Petition for expungement of records of**  
5 **conviction of certain misdemeanors; filing fee; notice;**  
6 **objections; hearing; definitions; exceptions.**

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

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

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21 (m) As used in this section:

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

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7           **33-26-402. Grounds for suspension; revocation;**  
8 **restriction; imposition of conditions; refusal to renew or**  
9 **other disciplinary action.**

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

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

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20           (xxxv) Any behavior by a licensee toward a  
21 patient, former patient, another licensee, an employee of a  
22 health care facility, an employee of the licensee or a  
23 relative or guardian of a patient that exploits the

1 position of trust, knowledge, emotions or influence of the  
2 licensee.

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4       **Section 3.** W.S. 6-2-303(a)(viii), 33-25-111(a)(xx),  
5 33-26-102(a)(xiii) and 33-26-402(a)(vii) are repealed.

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7       **Section 4.**

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

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

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

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

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8           **Section 5.**

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

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

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(END)