

**REMARKS OF SENATOR JOANNE HUELSMAN, CHAIRPERSON,
SPECIAL COMMITTEE ON DISCIPLINE OF
HEALTH CARE PROFESSIONALS,
TO THE SENATE COMMITTEE ON HEALTH, UTILITIES,
VETERANS AND MILITARY AFFAIRS
OCTOBER 17, 2001**

Good afternoon. I am Senator Joanne Huelsman, representing the 11th Senate District.

I am here to give some background on two bills--2001 Senate Bills 139 and 140. These bills were originally introduced last session by the Joint Legislative Council, but were not reported out of Senate committee. In March of this year, the Joint Legislative Council unanimously voted to reintroduce these bills into the 2001 Legislature.

I served as Chairperson of the Joint Legislative Council's Special Committee on Discipline of Health Care Professionals during the 1998-99 interim study period. The Special Committee was an outgrowth of legislative consideration in the 1997 Session of medical malpractice and physician discipline issues. While the Legislature did enact significant legislation in the 1997 Session on physician discipline (Act 311), some legislators remained interested in a more comprehensive look at the

physician discipline process, as well as the discipline processes for other health care professionals.

The Special Committee began its deliberations by focusing on the physician disciplinary process, reviewing substantial information on current levels of state and private physician review. As the Committee's deliberations progressed, the scope of the study expanded to also include the discipline procedure for other health care professionals.

The quality of the Committee's membership was excellent; it was also active and strong-willed. This made for some difficult but spirited discussion of certain issues, not all of which were resolved. This reflects, I believe, the changing nature of health care in this country and the continuing evolution of the appropriate role of the state in regulating health care professionals. While it is clear that health care professional discipline issues will continue to be considered by future legislatures, in the meantime the Special Committee's recommendations will make the current state discipline process more effective and responsive.

Senate Bill 139 contains provisions that apply to disciplinary procedures for health care professionals generally, and provisions that

are specific to physician discipline. Provisions that apply to health care professionals generally include:

One. Requiring the Department of Regulation and Licensing to develop a system to establish the relative priority of cases involving unprofessional conduct; to develop a system for identifying health care professionals who may warrant further evaluation and possible investigation; and to establish guidelines for the timely completion of discipline cases;

Two. Requiring the department to, in varying degree, give notice to complainants, patients and health care professionals and their places of practice, when specified stages of the disciplinary process are opened or closed; and

Three. Requiring that a patient or client who has been adversely affected by a health care professional's conduct be given an opportunity to confer with the department's prosecuting attorney.

Provisions of the bill specific to the physician disciplinary process include:

One. Adding two public members to the Medical Examining Board, resulting in a 15-member board with five public members, nine medical doctors and one doctor of osteopathy;

Two. Authorizing the Medical Examining Board to summarily limit, in addition to summarily suspending, any credential issued by the board, pending a disciplinary hearing;

Three. Authorizing the Medical Examining Board to assess a forfeiture of not more than \$1,000 against a credential holder found guilty of unprofessional conduct; and

Four. Requiring that reports on medical malpractice payments and on professional review actions by health care entities, which currently must be submitted to the National Practitioner Data Bank, must also be submitted to the Medical Examining Board. The bill creates a penalty for failure to submit such reports.

Finally, Senate Bill 139 provides that when a coroner or medical examiner receives a required report of a death and subsequently determines that the death was "therapeutic-related," as defined in the bill, the coroner or medical examiner must indicate that determination on

the death certificate and forward the information to the Department of Regulation and Licensing.

The second bill before you, Senate Bill 140, directs the Medical Examining Board to make specified information available for dissemination to the public in a format established by the board. That information relates to a physician's education, practice, malpractice history, criminal history and disciplinary history. The costs incurred by the Department of Regulation and Licensing in connection with making the information available to the public would be funded by a surcharge on license renewal fees paid biennially by physicians licensed in the state. This proposal is based on a Massachusetts law which puts such information on the Internet. Our Department of Regulation and Licensing already provides recent physician discipline information on the department's website by providing access to the board's Regulatory Digest. The Committee concluded that making information on individual physicians available at one source will be convenient and useful for the public and, by including the information specified in the bill, will provide a balanced physician profile.

I urge the Committee to give these bills favorable consideration. If you have any questions, I would be happy to attempt to answer them. Laura Rose and Don Dyke, from the Legislative Council Staff, are here to assist me.