
SENATE BILL 5370

State of Washington

62nd Legislature

2011 Regular Session

By Senators Keiser and Conway

Read first time 01/21/11. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the adverse health events and incident reporting
2 system; amending RCW 70.56.020 and 18.130.080; reenacting and amending
3 RCW 70.56.030; and adding a new section to chapter 70.56 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.56.020 and 2009 c 495 s 12 are each amended to read
6 as follows:

7 (1) The legislature intends to establish an adverse health events
8 and incident notification and reporting system that is designed to
9 facilitate quality improvement in the health care system, improve
10 patient safety, assist the public in making informed health care
11 choices, and decrease medical errors in a nonpunitive manner. The
12 notification and reporting system shall not be designed to punish
13 errors by health care practitioners or health care facility employees.

14 (2) When a medical facility confirms that an adverse event has
15 occurred, it shall submit to:

16 (a) The department of health, using the internet-based system
17 established under RCW 70.56.040(2), if operational, and any payor, as
18 that term is defined in RCW 41.05.036, for service relating to the
19 adverse event:

1 ~~((a))~~ (i) Notification of the event, with the date, type of
2 adverse event, and any additional contextual information the facility
3 chooses to provide, within forty-eight hours; and

4 ~~((b))~~ (ii) A report regarding the event within forty-five days
5 that may be amended by the medical facility within sixty days of the
6 submission; and

7 (b) The patient or family affected by the adverse event:

8 (i) A notice that an adverse event relating to the patient has been
9 reported to the department of health. The notice must include the
10 information provided to the department under (a) of this subsection;
11 and

12 (ii) Information on how the patient or family may access adverse
13 event reports via the department of health's web site.

14 ~~((The notification and report shall be submitted to the department~~
15 ~~using the internet based system established under RCW 70.56.040(2) if~~
16 ~~the system is operational.~~

17 ~~(c) A medical facility may amend the notification or report within~~
18 ~~sixty days of the submission.))~~

19 (3) The notification and report shall be filed in a format
20 specified by the department after consultation with medical facilities
21 and the independent entity if an independent entity has been contracted
22 for under RCW 70.56.040(1). The format shall identify the facility,
23 but shall not include any identifying information for any of the health
24 care professionals, facility employees, or patients involved. This
25 provision does not modify the duty of a hospital to make a report to
26 the department of health or a disciplinary authority if a licensed
27 practitioner has committed unprofessional conduct as defined in RCW
28 18.130.180.

29 (4) As part of the report filed under subsection (2)~~((b))~~ (a)(ii)
30 of this section, the medical facility must conduct a root cause
31 analysis of the event, describe the corrective action plan that will be
32 implemented consistent with the findings of the analysis, or provide an
33 explanation of any reasons for not taking corrective action. The
34 department shall adopt rules, in consultation with medical facilities
35 and the independent entity if an independent entity has been contracted
36 for under RCW 70.56.040(1), related to the form and content of the root
37 cause analysis and corrective action plan. In developing the rules,
38 consideration shall be given to existing standards for root cause

1 analysis or corrective action plans adopted by the joint commission on
2 accreditation of health facilities and other national or governmental
3 entities.

4 (5) If, in the course of investigating a complaint received from an
5 employee of a medical facility, the department determines that the
6 facility has not provided notification of an adverse event or
7 undertaken efforts to investigate the occurrence of an adverse event,
8 the department shall direct the facility to provide notification or to
9 undertake an investigation of the event.

10 (6) The protections of RCW 43.70.075 apply to notifications of
11 adverse events that are submitted in good faith by employees of medical
12 facilities.

13 **Sec. 2.** RCW 18.130.080 and 2008 c 134 s 8 are each amended to read
14 as follows:

15 (1)(a) An individual, an impaired practitioner program, or a
16 voluntary substance abuse monitoring program approved by a disciplining
17 authority, may submit a written complaint to the disciplining authority
18 charging a license holder or applicant with unprofessional conduct and
19 specifying the grounds therefor or to report information to the
20 disciplining authority, or voluntary substance abuse monitoring
21 program, or an impaired practitioner program approved by the
22 disciplining authority, which indicates that the license holder may not
23 be able to practice his or her profession with reasonable skill and
24 safety to consumers as a result of a mental or physical condition.

25 (b)(i) Every license holder, corporation, organization, health care
26 facility, and state and local governmental agency that employs a
27 license holder shall report to the disciplining authority when the
28 employed license holder's services have been terminated or restricted
29 based upon a final determination that the license holder has either
30 committed an act or acts that may constitute unprofessional conduct or
31 that the license holder may not be able to practice his or her
32 profession with reasonable skill and safety to consumers as a result of
33 a mental or physical condition.

34 (ii) All reports required by (b)(i) of this subsection must be
35 submitted to the disciplining authority as soon as possible, but no
36 later than twenty days after a determination has been made. A report
37 should contain the following information, if known:

1 (A) The name, address, and telephone number of the person making
2 the report;

3 (B) The name, address, and telephone number of the license holder
4 being reported;

5 (C) The case number of any patient whose treatment is the subject
6 of the report;

7 (D) A brief description or summary of the facts that gave rise to
8 the issuance of the report, including dates of occurrences;

9 (E) If court action is involved, the name of the court in which the
10 action is filed, the date of filing, and the docket number; and

11 (F) Any further information that would aid in the evaluation of the
12 report.

13 (iii) Mandatory reports required by (b)(i) of this subsection are
14 exempt from public inspection and copying to the extent permitted under
15 chapter 42.56 RCW or to the extent that public inspection or copying of
16 the report would invade or violate a person's right to privacy as set
17 forth in RCW 42.56.050.

18 (2) After receiving a written complaint under subsection (1) of
19 this section, the disciplining authority must submit a copy of the
20 complaint to the department of health's adverse health events and
21 incident notification and reporting system, which information shall be
22 used as necessary by the department in conducting investigations under
23 RCW 70.56.030.

24 (3) If the disciplining authority determines that a complaint
25 submitted under subsection (1) of this section merits investigation, or
26 if the disciplining authority has reason to believe, without a formal
27 complaint, that a license holder or applicant may have engaged in
28 unprofessional conduct, the disciplining authority shall investigate to
29 determine whether there has been unprofessional conduct. In
30 determining whether or not to investigate, the disciplining authority
31 shall consider any prior complaints received by the disciplining
32 authority, any prior findings of fact under RCW 18.130.110, any
33 stipulations to informal disposition under RCW 18.130.172, and any
34 comparable action taken by other state disciplining authorities.

35 ((+3)) (4) Notwithstanding subsection ((+2)) (3) of this section,
36 the disciplining authority shall initiate an investigation in every
37 instance where:

1 (a) The disciplining authority receives information that a health
2 care provider has been disqualified from participating in the federal
3 medicare program, under Title XVIII of the federal social security act,
4 or the federal medicaid program, under Title XIX of the federal social
5 security act; or

6 (b) There is a pattern of complaints, arrests, or other actions
7 that may not have resulted in a formal adjudication of wrongdoing, but
8 when considered together demonstrate a pattern of similar conduct that,
9 without investigation, likely poses a risk to the safety of the license
10 holder's patients.

11 ~~((+4))~~ (5) Failure of a license holder to submit a mandatory
12 report to the disciplining authority under subsection (1)(b) of this
13 section is punishable by a civil penalty not to exceed five hundred
14 dollars and constitutes unprofessional conduct.

15 ~~((+5))~~ (6) If a report has been made by a hospital to the
16 department under RCW 70.41.210 or an ambulatory surgical facility under
17 RCW 70.230.120, a report to the disciplining authority under subsection
18 (1)(b) of this section is not required.

19 ~~((+6))~~ (7) A person is immune from civil liability, whether direct
20 or derivative, for providing information in good faith to the
21 disciplining authority under this section.

22 ~~((+7))~~ (8)(a) The secretary is authorized to receive criminal
23 history record information that includes nonconviction data for any
24 purpose associated with the investigation or licensing of persons under
25 this chapter.

26 (b) Dissemination or use of nonconviction data for purposes other
27 than that authorized in this section is prohibited.

28 **Sec. 3.** RCW 70.56.030 and 2009 c 495 s 13 and 2009 c 488 s 1 are
29 each reenacted and amended to read as follows:

30 (1) The department shall:

31 (a) Receive and investigate, where necessary, notifications and
32 reports of adverse events, including root cause analyses and corrective
33 action plans submitted as part of reports and relevant complaint
34 information submitted under RCW 18.130.080, and communicate to
35 individual facilities the department's conclusions, if any, regarding
36 an adverse event reported by a facility; and

37 (b) Adopt rules as necessary to implement this chapter.

1 (2) The department may enforce the reporting requirements of RCW
2 70.56.020 using its existing enforcement authority provided in chapter
3 18.46 RCW for childbirth centers, chapter 70.41 RCW for hospitals, and
4 chapter 71.12 RCW for psychiatric hospitals.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.56 RCW
6 to read as follows:

7 (1) Beginning July 1, 2012, medical facilities must submit an
8 annual fee of one thousand dollars to the department in order to fund
9 the adverse health events and incident notification system. This fee
10 must be used by the department for oversight and enforcement activities
11 as well as investigations conducted under this chapter.

12 (2) Fees collected under this section must be deposited into the
13 health professions account in RCW 43.70.320.

14 (3) The department may adopt rules to implement this section and
15 may adjust the fee under subsection (1) of this section annually for
16 inflation if deemed necessary by the department.

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