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HOUSE BILL 2253

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Cody, H. Sommers, Conway, Wood, Blalock, Fisher and Murray; by request of Governor Locke

Read first time 03/13/97. Referred to Committee on Health Care.

1 AN ACT Relating to the office of health policy; amending RCW  
2 43.70.066, 43.70.068, and 43.72.310; reenacting and amending RCW  
3 42.17.310; adding new sections to chapter 43.73 RCW; adding a new  
4 section to chapter 41.06 RCW; repealing RCW 43.73.010, 43.73.020, and  
5 43.73.040; providing an effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.73 RCW  
8 to read as follows:

9 (1) The governor shall establish an office of health policy by July  
10 1, 1997. The office is to develop coordinated and cost-effective  
11 methods of purchasing health care for state government and to provide  
12 policy analysis and recommendations to the governor and appropriate  
13 committees of the legislature on methods to improve the state health  
14 care system.

15 (2) The office has the following responsibilities:

16 (a) Develop by January 1, 1999, a coordinated and cost-effective  
17 purchasing process for health care services purchased by the health  
18 care authority and the medical assistance program of the department of  
19 social and health services. In developing the process, the office

1 shall consider: A single request for proposal and review instrument  
2 for any common components; a single contract period; uniform standards  
3 for financial requirements, data requirements, and quality improvement  
4 requirements; and coordination of related staff of the department of  
5 social and health services and the state health care authority;

6 (i) Seek necessary federal waivers to implement this section;

7 (ii) Analyze state statutes and recommend amendments, if any,  
8 necessary to implement this section to the appropriate committees of  
9 the legislature by December 1, 1998;

10 (b) In cooperation with other health-related state agencies,  
11 analyze the feasibility and desirability of including other state  
12 purchased health care programs in the coordinated purchasing process  
13 set forth in this section and report its findings to the appropriate  
14 committees of the legislature by July 1, 1999;

15 (c) Establish an advisory committee, in coordination with the  
16 office of financial management and appropriate legislative  
17 representatives, to make recommendations on the long-term stabilization  
18 of the health services account by November 1, 1998;

19 (d) Work with an interagency group of all health-related state  
20 agencies to identify duplication and inefficiencies in state health  
21 care purchasing, management, and regulatory activities and make  
22 recommendations to the governor on ways to improve the state's health  
23 care activities;

24 (e) Make periodic recommendations to the appropriate committees of  
25 the legislature on methods to improve the state health care system.

26 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.73 RCW  
27 to read as follows:

28 The governor shall appoint the director of the office of health  
29 policy who shall be the administrative officer and appointing authority  
30 of the office. The director shall have the authority to employ  
31 personnel in accordance with chapter 41.06 RCW and prescribe their  
32 duties. The director may employ up to eight personnel exempt from the  
33 provisions of chapter 41.06 RCW. The director shall also have the  
34 following powers and duties:

35 (1) Enter into contracts on behalf of the office;

36 (2) Accept and expend donations, grants, and other funds received  
37 by the office;

1 (3) Appoint advisory committees including consumers, providers,  
2 business representatives, labor representatives, insurance industry  
3 representatives, and other interested parties; and

4 (4) Undertake studies, research, and analysis necessary to support  
5 activities of the office.

6 **Sec. 3.** RCW 43.70.066 and 1995 c 267 s 4 are each amended to read  
7 as follows:

8 (1) The department of health in consultation with the office of  
9 health policy (~~board~~) shall study the feasibility of a uniform  
10 quality assurance and improvement program for use by all public and  
11 private health plans and health care providers and facilities. In this  
12 study, the department shall consult with:

13 (a) Public and private purchasers of health care services;

14 (b) Health carriers;

15 (c) Health care providers and facilities; and

16 (d) Consumers of health services.

17 (2) In conducting the study, the department shall propose standards  
18 that meet the needs of affected persons and organizations, whether  
19 public or private, without creation of differing levels of quality  
20 assurance. All consumers of health services should be afforded the  
21 same level of quality assurance.

22 (3) At a minimum, the study shall include but not be limited to the  
23 following program components and indicators appropriate for consumer  
24 disclosure:

25 (a) Health care provider training, credentialing, and licensure  
26 standards;

27 (b) Health care facility credentialing and recredentialing;

28 (c) Staff ratios in health care facilities;

29 (d) Annual mortality and morbidity rates of cases based on a  
30 defined set of procedures performed or diagnoses treated in health care  
31 facilities, adjusted to fairly consider variable factors such as  
32 patient demographics and case severity;

33 (e) The average total cost and average length of hospital stay for  
34 a defined set of procedures and diagnoses;

35 (f) The total number of the defined set of procedures, by  
36 specialty, performed by each physician at a health care facility within  
37 the previous twelve months;

1 (g) Utilization performance profiles by provider, both primary care  
2 and specialty care, that have been adjusted to fairly consider variable  
3 factors such as patient demographics and severity of case;

4 (h) Health plan fiscal performance standards;

5 (i) Health care provider and facility recordkeeping and reporting  
6 standards;

7 (j) Health care utilization management that monitors trends in  
8 health service underutilization, as well as overutilization of  
9 services;

10 (k) Health monitoring that is responsive to consumer, purchaser,  
11 and public health assessment needs; and

12 (l) Assessment of consumer satisfaction and disclosure of consumer  
13 survey results.

14 (4) In conducting the study, the department shall develop standards  
15 that permit each health care facility, provider group, or health  
16 carrier to assume responsibility for and determine the physical method  
17 of collection, storage, and assimilation of quality indicators for  
18 consumer disclosure. The study may define the forms, frequency, and  
19 posting requirements for disclosure of information.

20 In developing proposed standards under this subsection, the  
21 department shall identify options that would minimize provider burden  
22 and administrative cost resulting from duplicative private sector data  
23 submission requirements.

24 (5) The department shall submit a preliminary report to the  
25 legislature by December 31, 1995, including recommendations for initial  
26 legislation pursuant to subsection (6) of this section, and shall  
27 submit supplementary reports and recommendations as completed,  
28 consistent with appropriated funds and staffing.

29 (6) The department shall not adopt any rule implementing the  
30 uniform quality assurance program or consumer disclosure provisions  
31 unless expressly directed to do so by an act of law.

32 **Sec. 4.** RCW 43.70.068 and 1995 c 267 s 5 are each amended to read  
33 as follows:

34 (~~No later than July 1, 1995, the health care policy board~~) The  
35 office of health policy together with the department of health, the  
36 health care authority, the department of social and health services,  
37 the office of the insurance commissioner, and the department of labor  
38 and industries shall form an interagency group for coordination and

1 consultation on quality assurance activities and collaboration on  
2 (~~final~~) recommendations for the (~~study~~) reports required under RCW  
3 43.70.066. (~~By December 31, 1996, the group shall review all state~~  
4 ~~agency programs governing health service quality assurance, in light of~~  
5 ~~legislative actions pursuant to RCW 43.70.066(6), and shall recommend~~  
6 ~~to the legislature, the consolidation, coordination, or elimination of~~  
7 ~~rules and programs that would be made unnecessary pursuant to the~~  
8 ~~development of a uniform quality assurance and improvement program.))~~

9       **Sec. 5.** RCW 43.72.310 and 1995 c 267 s 8 are each amended to read  
10 as follows:

11       (1) Until May 8, 1995, and after June 30, 1996, a (~~certified~~  
12 ~~health plan~~) health carrier, health care facility, health care  
13 provider, or other person involved in the development, delivery, or  
14 marketing of health care or (~~certified health plans~~) health carriers  
15 may request, in writing, that the (~~commission~~) office of health  
16 policy obtain an informal opinion from the attorney general as to  
17 whether particular conduct is authorized by chapter 492, Laws of 1993.  
18 Trade secret or proprietary information contained in a request for  
19 informal opinion shall be identified as such and shall not be disclosed  
20 other than to an authorized employee of the (~~commission~~) office of  
21 health policy or attorney general without the consent of the party  
22 making the request, except that information in summary or aggregate  
23 form and market share data may be contained in the informal opinion  
24 issued by the attorney general. The attorney general shall issue such  
25 opinion within thirty days of receipt of a written request for an  
26 opinion or within thirty days of receipt of any additional information  
27 requested by the attorney general necessary for rendering an opinion  
28 unless extended by the attorney general for good cause shown. If the  
29 attorney general concludes that such conduct is not authorized by  
30 chapter 492, Laws of 1993, the person or organization making the  
31 request may petition the (~~commission~~) office of health policy for  
32 review and approval of such conduct in accordance with subsection (3)  
33 of this section.

34       (2) After obtaining the written opinion of the attorney general and  
35 consistent with such opinion, the (~~health services commission~~) office  
36 of health policy:

37       (a) May authorize conduct by a (~~certified health plan~~) health  
38 carrier, health care facility, health care provider, or any other

1 person that could tend to lessen competition in the relevant market  
2 upon a strong showing that the conduct is likely to achieve the policy  
3 goals of chapter 492, Laws of 1993 and a more competitive alternative  
4 is impractical;

5 (b) Shall adopt rules governing conduct among providers, health  
6 care facilities, and (~~certified health plans~~) health carriers  
7 including rules governing provider and facility contracts with  
8 (~~certified health plans~~) health carriers, rules governing the use of  
9 "most favored nation" clauses and exclusive dealing clauses in such  
10 contracts, and rules providing that (~~certified health plans~~) health  
11 carriers in rural areas contract with a sufficient number and type of  
12 health care providers and facilities to ensure consumer access to local  
13 health care services;

14 (c) Shall adopt rules permitting health care providers within the  
15 service area of a plan to collectively negotiate the terms and  
16 conditions of contracts with a (~~certified health plan~~) health carrier  
17 including the ability of providers to meet and communicate for the  
18 purposes of these negotiations; and

19 (d) Shall adopt rules governing cooperative activities among health  
20 care facilities and providers.

21 (3) Until May 8, 1995, and after June 30, 1996, a (~~certified~~  
22 ~~health plan~~) health carrier, health care facility, health care  
23 provider, or any other person involved in the development, delivery,  
24 and marketing of health services or (~~certified health plans~~) health  
25 carriers may file a written petition with the (~~commission~~) office of  
26 health policy requesting approval of conduct that could tend to lessen  
27 competition in the relevant market. Such petition shall be filed in a  
28 form and manner prescribed by rule of the (~~commission~~) office of  
29 health policy.

30 The (~~commission~~) office of health policy shall issue a written  
31 decision approving or denying a petition filed under this section  
32 within ninety days of receipt of a properly completed written petition  
33 unless extended by the (~~commission~~) office of health policy for good  
34 cause shown. The decision shall set forth findings as to benefits and  
35 disadvantages and conclusions as to whether the benefits outweigh the  
36 disadvantages.

37 (4) In authorizing conduct and adopting rules of conduct under this  
38 section, the (~~commission~~) office of health policy with the advice of  
39 the attorney general, shall consider the benefits of such conduct in

1 furthering the goals of health care reform including but not limited  
2 to:

- 3 (a) Enhancement of the quality of health services to consumers;
- 4 (b) Gains in cost efficiency of health services;
- 5 (c) Improvements in utilization of health services and equipment;
- 6 (d) Avoidance of duplication of health services resources; or
- 7 (e) And as to (b) and (c) of this subsection: (i) Facilitates the  
8 exchange of information relating to performance expectations; (ii)  
9 simplifies the negotiation of delivery arrangements and relationships;  
10 and (iii) reduces the transactions costs on the part of (~~certified~~  
11 ~~health plans~~) health carriers and providers in negotiating more cost-  
12 effective delivery arrangements.

13 These benefits must outweigh disadvantages including and not  
14 limited to:

- 15 (i) Reduced competition among (~~certified health plans~~) health  
16 carriers, health care providers, or health care facilities;
- 17 (ii) Adverse impact on quality, availability, or price of health  
18 care services to consumers; or
- 19 (iii) The availability of arrangements less restrictive to  
20 competition that achieve the same benefits.

21 (5) Conduct authorized by the (~~commission~~) office of health  
22 policy shall be deemed taken pursuant to state statute and in the  
23 furtherance of the public purposes of the state of Washington.

24 (6) With the assistance of the attorney general's office, the  
25 (~~commission~~) office of health policy shall actively supervise any  
26 conduct authorized under this section to determine whether such conduct  
27 or rules permitting certain conduct should be continued and whether a  
28 more competitive alternative is practical. The (~~commission~~) office  
29 of health policy shall periodically review petitioned conduct through,  
30 at least, annual progress reports from petitioners, annual or more  
31 frequent reviews by the (~~commission~~) office of health policy that  
32 evaluate whether the conduct is consistent with the petition, and  
33 whether the benefits continue to outweigh any disadvantages. If the  
34 (~~commission~~) office of health policy determines that the likely  
35 benefits of any conduct approved through rule, petition, or otherwise  
36 by the (~~commission~~) office of health policy no longer outweigh the  
37 disadvantages attributable to potential reduction in competition, the  
38 (~~commission~~) office of health policy shall order a modification or  
39 discontinuance of such conduct. Conduct ordered discontinued by the

1 ((~~commission~~)) office of health policy shall no longer be deemed to be  
2 taken pursuant to state statute and in the furtherance of the public  
3 purposes of the state of Washington.

4 (7) Nothing contained in chapter 492, Laws of 1993 is intended to  
5 in any way limit the ability of rural hospital districts to enter into  
6 cooperative agreements and contracts pursuant to RCW 70.44.450 and  
7 chapter 39.34 RCW.

8 (8) Only requests for informal opinions under subsection (1) of  
9 this section and petitions under subsection (3) of this section that  
10 were received prior to May 8, 1995, or after June 30, 1996, shall be  
11 considered.

12 NEW SECTION. Sec. 6. A new section is added to chapter 43.73 RCW  
13 to read as follows:

14 (1) The health care policy board is hereby abolished and its  
15 powers, duties, and functions are hereby transferred to the office of  
16 health policy. All references to the chair or the health care policy  
17 board in the Revised Code of Washington shall be construed to mean the  
18 director or the office of health policy.

19 (2)(a) All reports, documents, surveys, books, records, files,  
20 papers, or written material in the possession of the health care policy  
21 board shall be delivered to the custody of the office of health policy.  
22 All cabinets, furniture, office equipment, motor vehicles, and other  
23 tangible property employed by the health care policy board shall be  
24 made available to the office of health policy. All funds, credits, or  
25 other assets held by the health care policy board shall be assigned to  
26 the office of health policy.

27 (b) Any appropriations made to the health care policy board shall,  
28 on the effective date of this section, be transferred and credited to  
29 the office of health policy.

30 (c) If any question arises as to the transfer of any personnel,  
31 funds, books, documents, records, papers, files, equipment, or other  
32 tangible property used or held in the exercise of the powers and the  
33 performance of the duties and functions transferred, the director of  
34 financial management shall make a determination as to the proper  
35 allocation and certify the same to the state agencies concerned.

36 (3) All employees of the health care policy board are transferred  
37 to the jurisdiction of the office of health policy consistent with  
38 appropriations. All employees classified under chapter 41.06 RCW, the



1 state civil service law, are assigned to the office of health policy to  
2 perform their usual duties upon the same terms as formerly, without any  
3 loss of rights, subject to any action that may be appropriate  
4 thereafter in accordance with the laws and rules governing state civil  
5 service.

6 (4) All rules and all pending business before the health care  
7 policy board shall be continued and acted upon by the office of health  
8 policy. All existing contracts and obligations shall remain in full  
9 force and shall be performed by the office of health policy.

10 (5) The transfer of the powers, duties, functions, and personnel of  
11 the health care policy board shall not affect the validity of any act  
12 performed before the effective date of this section.

13 (6) If apportionments of budgeted funds are required because of the  
14 transfers directed by this section, the director of financial  
15 management shall certify the apportionments to the agencies affected,  
16 the state auditor, and the state treasurer. Each of these shall make  
17 the appropriate transfer and adjustments in funds and appropriation  
18 accounts and equipment records in accordance with the certification.

19 (7) Nothing contained in this section may be construed to alter any  
20 existing collective bargaining unit or the provisions of any existing  
21 collective bargaining agreement until the agreement has expired or  
22 until the bargaining unit has been modified by action of the personnel  
23 board as provided by law.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.06 RCW  
25 to read as follows:

26 In addition to the exemptions under RCW 41.06.070, the provisions  
27 of this chapter shall not apply in the office of health policy to the  
28 director and persons exempt under section 2 of this act.

29 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each  
30 repealed:

- 31 (1) RCW 43.73.010 and 1995 c 265 s 9;  
32 (2) RCW 43.73.020 and 1995 c 265 s 10; and  
33 (3) RCW 43.73.040 and 1995 c 265 s 12.

34 **Sec. 9.** RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996  
35 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as  
36 follows:

1 (1) The following are exempt from public inspection and copying:

2 (a) Personal information in any files maintained for students in  
3 public schools, patients or clients of public institutions or public  
4 health agencies, or welfare recipients.

5 (b) Personal information in files maintained for employees,  
6 appointees, or elected officials of any public agency to the extent  
7 that disclosure would violate their right to privacy.

8 (c) Information required of any taxpayer in connection with the  
9 assessment or collection of any tax if the disclosure of the  
10 information to other persons would (i) be prohibited to such persons by  
11 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result  
12 in unfair competitive disadvantage to the taxpayer.

13 (d) Specific intelligence information and specific investigative  
14 records compiled by investigative, law enforcement, and penology  
15 agencies, and state agencies vested with the responsibility to  
16 discipline members of any profession, the nondisclosure of which is  
17 essential to effective law enforcement or for the protection of any  
18 person's right to privacy.

19 (e) Information revealing the identity of persons who are witnesses  
20 to or victims of crime or who file complaints with investigative, law  
21 enforcement, or penology agencies, other than the public disclosure  
22 commission, if disclosure would endanger any person's life, physical  
23 safety, or property. If at the time a complaint is filed the  
24 complainant, victim or witness indicates a desire for disclosure or  
25 nondisclosure, such desire shall govern. However, all complaints filed  
26 with the public disclosure commission about any elected official or  
27 candidate for public office must be made in writing and signed by the  
28 complainant under oath.

29 (f) Test questions, scoring keys, and other examination data used  
30 to administer a license, employment, or academic examination.

31 (g) Except as provided by chapter 8.26 RCW, the contents of real  
32 estate appraisals, made for or by any agency relative to the  
33 acquisition or sale of property, until the project or prospective sale  
34 is abandoned or until such time as all of the property has been  
35 acquired or the property to which the sale appraisal relates is sold,  
36 but in no event shall disclosure be denied for more than three years  
37 after the appraisal.

1 (h) Valuable formulae, designs, drawings, and research data  
2 obtained by any agency within five years of the request for disclosure  
3 when disclosure would produce private gain and public loss.

4 (i) Preliminary drafts, notes, recommendations, and intra-agency  
5 memorandums in which opinions are expressed or policies formulated or  
6 recommended except that a specific record shall not be exempt when  
7 publicly cited by an agency in connection with any agency action.

8 (j) Records which are relevant to a controversy to which an agency  
9 is a party but which records would not be available to another party  
10 under the rules of pretrial discovery for causes pending in the  
11 superior courts.

12 (k) Records, maps, or other information identifying the location of  
13 archaeological sites in order to avoid the looting or depredation of  
14 such sites.

15 (l) Any library record, the primary purpose of which is to maintain  
16 control of library materials, or to gain access to information, which  
17 discloses or could be used to disclose the identity of a library user.

18 (m) Financial information supplied by or on behalf of a person,  
19 firm, or corporation for the purpose of qualifying to submit a bid or  
20 proposal for (i) a ferry system construction or repair contract as  
21 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
22 construction or improvement as required by RCW 47.28.070.

23 (n) Railroad company contracts filed prior to July 28, 1991, with  
24 the utilities and transportation commission under RCW 81.34.070, except  
25 that the summaries of the contracts are open to public inspection and  
26 copying as otherwise provided by this chapter.

27 (o) Financial and commercial information and records supplied by  
28 private persons pertaining to export services provided pursuant to  
29 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
30 export projects pursuant to RCW 43.23.035.

31 (p) Financial disclosures filed by private vocational schools under  
32 chapters 28B.85 and 28C.10 RCW.

33 (q) Records filed with the utilities and transportation commission  
34 or attorney general under RCW 80.04.095 that a court has determined are  
35 confidential under RCW 80.04.095.

36 (r) Financial and commercial information and records supplied by  
37 businesses or individuals during application for loans or program  
38 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,

1 or during application for economic development loans or program  
2 services provided by any local agency.

3 (s) Membership lists or lists of members or owners of interests of  
4 units in timeshare projects, subdivisions, camping resorts,  
5 condominiums, land developments, or common-interest communities  
6 affiliated with such projects, regulated by the department of  
7 licensing, in the files or possession of the department.

8 (t) All applications for public employment, including the names of  
9 applicants, resumes, and other related materials submitted with respect  
10 to an applicant.

11 (u) The residential addresses and residential telephone numbers of  
12 employees or volunteers of a public agency which are held by the agency  
13 in personnel records, employment or volunteer rosters, or mailing lists  
14 of employees or volunteers.

15 (v) The residential addresses and residential telephone numbers of  
16 the customers of a public utility contained in the records or lists  
17 held by the public utility of which they are customers.

18 (w)(i) The federal social security number of individuals governed  
19 under chapter 18.130 RCW maintained in the files of the department of  
20 health, except this exemption does not apply to requests made directly  
21 to the department from federal, state, and local agencies of  
22 government, and national and state licensing, credentialing,  
23 investigatory, disciplinary, and examination organizations; (ii) the  
24 current residential address and current residential telephone number of  
25 a health care provider governed under chapter 18.130 RCW maintained in  
26 the files of the department, if the provider requests that this  
27 information be withheld from public inspection and copying, and  
28 provides to the department an accurate alternate or business address  
29 and business telephone number. On or after January 1, 1995, the  
30 current residential address and residential telephone number of a  
31 health care provider governed under RCW 18.130.140 maintained in the  
32 files of the department shall automatically be withheld from public  
33 inspection and copying unless the provider specifically requests the  
34 information be released, and except as provided for under RCW  
35 42.17.260(9).

36 (x) Information obtained by the board of pharmacy as provided in  
37 RCW 69.45.090.

1 (y) Information obtained by the board of pharmacy or the department  
2 of health and its representatives as provided in RCW 69.41.044,  
3 69.41.280, and 18.64.420.

4 (z) Financial information, business plans, examination reports, and  
5 any information produced or obtained in evaluating or examining a  
6 business and industrial development corporation organized or seeking  
7 certification under chapter 31.24 RCW.

8 (aa) Financial and commercial information supplied to the state  
9 investment board by any person when the information relates to the  
10 investment of public trust or retirement funds and when disclosure  
11 would result in loss to such funds or in private loss to the providers  
12 of this information.

13 (bb) Financial and valuable trade information under RCW 51.36.120.

14 (cc) Client records maintained by an agency that is a domestic  
15 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
16 crisis center as defined in RCW 70.125.030.

17 (dd) Information that identifies a person who, while an agency  
18 employee: (i) Seeks advice, under an informal process established by  
19 the employing agency, in order to ascertain his or her rights in  
20 connection with a possible unfair practice under chapter 49.60 RCW  
21 against the person; and (ii) requests his or her identity or any  
22 identifying information not be disclosed.

23 (ee) Investigative records compiled by an employing agency  
24 conducting a current investigation of a possible unfair practice under  
25 chapter 49.60 RCW or of a possible violation of other federal, state,  
26 or local laws prohibiting discrimination in employment.

27 (ff) Business related information protected from public inspection  
28 and copying under RCW 15.86.110.

29 (gg) Financial, commercial, operations, and technical and research  
30 information and data submitted to or obtained by the clean Washington  
31 center in applications for, or delivery of, program services under  
32 chapter 70.95H RCW.

33 (hh) Information and documents created specifically for, and  
34 collected and maintained by a quality improvement committee pursuant to  
35 RCW 43.70.510, regardless of which agency is in possession of the  
36 information and documents.

37 (ii) Personal information in files maintained in a data base  
38 created under RCW 43.07.360.

1       (jj) Proprietary financial and commercial information that the  
2 submitting entity, with review by the office of health policy, or  
3 interagency quality committee, specifically identifies at the time it  
4 is submitted and that is provided to or obtained by: (i) The office of  
5 health policy in connection with an application for, or the supervision  
6 of, an antitrust exemption sought by the submitting entity under RCW  
7 43.72.310; (ii) the office of health policy under RCW 43.73.030 or  
8 section 2, chapter 281, Laws of 1996; or (iii) the interagency quality  
9 committee under RCW 43.70.068 in connection with its authority to study  
10 health care issues. If a request for such information is received, the  
11 submitting entity must be notified of the request. Within ten business  
12 days of receipt of the notice, the submitting entity shall provide a  
13 written statement of the continuing need for confidentiality, which  
14 shall be provided to the requester. Upon receipt of such notice, the  
15 office of health policy or interagency quality committee shall continue  
16 to treat information designated under this section as exempt from  
17 disclosure. If the requester initiates an action to compel disclosure  
18 under this chapter, the submitting entity must be joined as a party to  
19 demonstrate the continuing need for confidentiality.

20       (kk) Health care information, as defined in RCW 70.02.010(6),  
21 obtained by the office of health policy as authorized by RCW 43.73.030  
22 or section 2, chapter 281, Laws of 1996 or the interagency quality  
23 committee as authorized by RCW 43.70.068 under its authority to study  
24 health care issues. Such information shall be released in a form that  
25 the record does not identify the recipient of the health care or that  
26 would otherwise be permitted by chapter 70.02 RCW without consent of  
27 the patient.

28       (2) Except for information described in subsection (1)(c)(i) of  
29 this section and confidential income data exempted from public  
30 inspection pursuant to RCW 84.40.020, the exemptions of this section  
31 are inapplicable to the extent that information, the disclosure of  
32 which would violate personal privacy or vital governmental interests,  
33 can be deleted from the specific records sought. No exemption may be  
34 construed to permit the nondisclosure of statistical information not  
35 descriptive of any readily identifiable person or persons.

36       (3) Inspection or copying of any specific records exempt under the  
37 provisions of this section may be permitted if the superior court in  
38 the county in which the record is maintained finds, after a hearing  
39 with notice thereof to every person in interest and the agency, that

1 the exemption of such records is clearly unnecessary to protect any  
2 individual's right of privacy or any vital governmental function.

3 (4) Agency responses refusing, in whole or in part, inspection of  
4 any public record shall include a statement of the specific exemption  
5 authorizing the withholding of the record (or part) and a brief  
6 explanation of how the exemption applies to the record withheld.

7 NEW SECTION. **Sec. 10.** This act is necessary for the immediate  
8 preservation of the public peace, health, or safety, or support of the  
9 state government and its existing public institutions, and takes effect  
10 July 1, 1997, except section 1 of this act takes effect immediately.

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