
SUBSTITUTE SENATE BILL 5447

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn, Wood and Fairley)

Read first time 02/02/98.

1 AN ACT Relating to the disclosure of information obtained by the
2 department of health related to meeting licensing standards in
3 hospitals; amending RCW 70.41.150; and reenacting and amending RCW
4 42.17.310.

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

6 **Sec. 1.** RCW 70.41.150 and 1985 c 213 s 24 are each amended to read
7 as follows:

8 (1) Information received by the department through filed reports,
9 inspection, or as otherwise authorized under this chapter, shall
10 ((not)) be disclosed publicly ((in such manner as to identify
11 individuals or hospitals, except in a proceeding involving the question
12 of licensure. Such records of the department shall at all times be
13 available to the council and the members thereof)), as set forth under
14 chapter 42.17 RCW, except:

15 (a) Licensing inspections, or complaint investigations, may be
16 disclosed no sooner than three business days after the hospital has
17 received the resulting assessment report; and

1 (b) Information regarding administrative action against the license
2 may be disclosed after the hospital has received the documents
3 initiating the administrative action.

4 (2) The department may adopt rules necessary to implement this
5 section.

6 **Sec. 2.** RCW 42.17.310 and 1997 c 310 s 2, 1997 c 274 s 8, 1997 c
7 250 s 7, 1997 c 239 s 4, 1997 c 220 s 120 (Referendum Bill No. 48), and
8 1997 c 58 s 900 are each reenacted and amended to read as follows:

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

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

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

16 (c) Information required of any taxpayer in connection with the
17 assessment or collection of any tax if the disclosure of the
18 information to other persons would (i) be prohibited to such persons by
19 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
20 taxpayer's right to privacy or result in unfair competitive
21 disadvantage to the taxpayer.

22 (d) Specific intelligence information and specific investigative
23 records compiled by investigative, law enforcement, and penology
24 agencies, and state agencies vested with the responsibility to
25 discipline members of any profession, the nondisclosure of which is
26 essential to effective law enforcement or for the protection of any
27 person's right to privacy.

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

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

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

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

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

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

21 (k) Records, maps, or other information identifying the location of
22 archaeological sites in order to avoid the looting or depredation of
23 such sites.

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

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

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

36 (o) Financial and commercial information and records supplied by
37 private persons pertaining to export services provided pursuant to
38 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
39 export projects pursuant to RCW 43.23.035.

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

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

6 (r) Financial and commercial information and records supplied by
7 businesses or individuals during application for loans or program
8 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
9 or during application for economic development loans or program
10 services provided by any local agency.

11 (s) Membership lists or lists of members or owners of interests of
12 units in timeshare projects, subdivisions, camping resorts,
13 condominiums, land developments, or common-interest communities
14 affiliated with such projects, regulated by the department of
15 licensing, in the files or possession of the department.

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

19 (u) The residential addresses and residential telephone numbers of
20 employees or volunteers of a public agency which are held by the agency
21 in personnel records, employment or volunteer rosters, or mailing lists
22 of employees or volunteers.

23 (v) The residential addresses and residential telephone numbers of
24 the customers of a public utility contained in the records or lists
25 held by the public utility of which they are customers, except that
26 this information may be released to the division of child support or
27 the agency or firm providing child support enforcement for another
28 state under Title IV-D of the federal social security act, for the
29 establishment, enforcement, or modification of a support order.

30 (w)(i) The federal social security number of individuals governed
31 under chapter 18.130 RCW maintained in the files of the department of
32 health, except this exemption does not apply to requests made directly
33 to the department from federal, state, and local agencies of
34 government, and national and state licensing, credentialing,
35 investigatory, disciplinary, and examination organizations; (ii) the
36 current residential address and current residential telephone number of
37 a health care provider governed under chapter 18.130 RCW maintained in
38 the files of the department, if the provider requests that this
39 information be withheld from public inspection and copying, and

1 provides to the department an accurate alternate or business address
2 and business telephone number. On or after January 1, 1995, the
3 current residential address and residential telephone number of a
4 health care provider governed under RCW 18.130.140 maintained in the
5 files of the department shall automatically be withheld from public
6 inspection and copying unless the provider specifically requests the
7 information be released, and except as provided for under RCW
8 42.17.260(9).

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

11 (y) Information obtained by the board of pharmacy or the department
12 of health and its representatives as provided in RCW 69.41.044,
13 69.41.280, and 18.64.420.

14 (z) Financial information, business plans, examination reports, and
15 any information produced or obtained in evaluating or examining a
16 business and industrial development corporation organized or seeking
17 certification under chapter 31.24 RCW.

18 (aa) Financial and commercial information supplied to the state
19 investment board by any person when the information relates to the
20 investment of public trust or retirement funds and when disclosure
21 would result in loss to such funds or in private loss to the providers
22 of this information.

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

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

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

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

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

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

5 (hh) Information and documents created specifically for, and
6 collected and maintained by a quality improvement committee pursuant to
7 RCW 43.70.510, regardless of which agency is in possession of the
8 information and documents.

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

11 (jj) Financial and commercial information requested by the public
12 stadium authority from any person or organization that leases or uses
13 the stadium and exhibition center as defined in RCW 36.102.010.

14 (kk) Names of individuals residing in emergency or transitional
15 housing that are furnished to the department of revenue or a county
16 assessor in order to substantiate a claim for property tax exemption
17 under RCW 84.36.043.

18 (ll) The names, residential addresses, residential telephone
19 numbers, and other individually identifiable records held by an agency
20 in relation to a vanpool, carpool, or other ride-sharing program or
21 service. However, these records may be disclosed to other persons who
22 apply for ride-matching services and who need that information in order
23 to identify potential riders or drivers with whom to share rides.

24 (mm) Proprietary financial and commercial information that the
25 submitting entity, with review by the department of health,
26 specifically identifies at the time it is submitted and that is
27 provided to or obtained by the department of health in connection with
28 an application for, or the supervision of, an antitrust exemption
29 sought by the submitting entity under RCW 43.72.310. If a request for
30 such information is received, the submitting entity must be notified of
31 the request. Within ten business days of receipt of the notice, the
32 submitting entity shall provide a written statement of the continuing
33 need for confidentiality, which shall be provided to the requester.
34 Upon receipt of such notice, the department of health shall continue to
35 treat information designated under this section as exempt from
36 disclosure. If the requester initiates an action to compel disclosure
37 under this chapter, the submitting entity must be joined as a party to
38 demonstrate the continuing need for confidentiality.

1 (nn) Records maintained by the board of industrial insurance
2 appeals that are related to appeals of crime victims' compensation
3 claims filed with the board under RCW 7.68.110.

4 (oo) Information and documents created specifically for, and
5 collected and maintained by, a quality improvement committee acting on
6 behalf of a public hospital district pursuant to RCW 70.41.200,
7 regardless of whether the public hospital district or another state or
8 local government agency is in possession of the information and
9 documents.

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

18 (3) Inspection or copying of any specific records exempt under the
19 provisions of this section may be permitted if the superior court in
20 the county in which the record is maintained finds, after a hearing
21 with notice thereof to every person in interest and the agency, that
22 the exemption of such records is clearly unnecessary to protect any
23 individual's right of privacy or any vital governmental function.

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

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