
HOUSE BILL 2690

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Rodne, Eddy, Dammeier, and Haler; by request of Attorney General

Read first time 01/25/12. Referred to Committee on Judiciary.

1 AN ACT Relating to health care claims against public hospitals
2 arising out of tortious conduct; and amending RCW 4.92.100 and
3 4.96.020.

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

5 **Sec. 1.** RCW 4.92.100 and 2009 c 433 s 2 are each amended to read
6 as follows:

7 (1) All claims against the state, or against the state's officers,
8 employees, or volunteers, acting in such capacity, for damages arising
9 out of tortious conduct, (~~except for claims involving injuries from~~
10 ~~health care, shall~~) must be presented to the office of risk management
11 (~~division~~). (~~Claims involving injuries from health care are~~
12 ~~governed solely by the procedures set forth in chapter 7.70 RCW and are~~
13 ~~exempt from this chapter.~~) A claim is deemed presented when the claim
14 form is delivered in person or by regular mail, registered mail, or
15 certified mail, with return receipt requested, to the office of risk
16 management (~~division~~). For claims for damages presented after July
17 26, 2009, all claims for damages must be presented on the standard tort
18 claim form that is maintained by the office of risk management

1 ((~~division~~)). The standard tort claim form must be posted on the
2 ((~~office of financial management's~~)) department of enterprise service's
3 web site.

4 (a) The standard tort claim form must, at a minimum, require the
5 following information:

6 (i) The claimant's name, date of birth, and contact information;

7 (ii) A description of the conduct and the circumstances that
8 brought about the injury or damage;

9 (iii) A description of the injury or damage;

10 (iv) A statement of the time and place that the injury or damage
11 occurred;

12 (v) A listing of the names of all persons involved and contact
13 information, if known;

14 (vi) A statement of the amount of damages claimed; and

15 (vii) A statement of the actual residence of the claimant at the
16 time of presenting the claim and at the time the claim arose.

17 (b) The standard tort claim form must be signed either:

18 (i) By the claimant, verifying the claim;

19 (ii) Pursuant to a written power of attorney, by the attorney in
20 fact for the claimant;

21 (iii) By an attorney admitted to practice in Washington state on
22 the claimant's behalf; or

23 (iv) By a court-approved guardian or guardian ad litem on behalf of
24 the claimant.

25 (c) The amount of damages stated on the claim form is not
26 admissible at trial.

27 (2) The state shall make available the standard tort claim form
28 described in this section with instructions on how the form is to be
29 presented and the name, address, and business hours of the office of
30 risk management ((~~division~~)). The standard tort claim form must not
31 list the claimant's social security number and must not require
32 information not specified under this section.

33 (3) With respect to the content of claims under this section and
34 all procedural requirements in this section, this section must be
35 liberally construed so that substantial compliance will be deemed
36 satisfactory.

1 **Sec. 2.** RCW 4.96.020 and 2009 c 433 s 1 are each amended to read
2 as follows:

3 (1) The provisions of this section apply to claims for damages
4 against all local governmental entities and their officers, employees,
5 or volunteers, acting in such capacity(~~(, except that claims involving~~
6 ~~injuries from health care are governed solely by the procedures set~~
7 ~~forth in chapter 7.70 RCW and are exempt from this chapter)~~).

8 (2) The governing body of each local governmental entity shall
9 appoint an agent to receive any claim for damages made under this
10 chapter. The identity of the agent and the address where he or she may
11 be reached during the normal business hours of the local governmental
12 entity are public records and shall be recorded with the auditor of the
13 county in which the entity is located. All claims for damages against
14 a local governmental entity, or against any local governmental entity's
15 officers, employees, or volunteers, acting in such capacity, shall be
16 presented to the agent within the applicable period of limitations
17 within which an action must be commenced. A claim is deemed presented
18 when the claim form is delivered in person or is received by the agent
19 by regular mail, registered mail, or certified mail, with return
20 receipt requested, to the agent or other person designated to accept
21 delivery at the agent's office. The failure of a local governmental
22 entity to comply with the requirements of this section precludes that
23 local governmental entity from raising a defense under this chapter.

24 (3) For claims for damages presented after July 26, 2009, all
25 claims for damages must be presented on the standard tort claim form
26 that is maintained by the risk management division of the office of
27 financial management, except as allowed under (c) of this subsection.
28 The standard tort claim form must be posted on the office of financial
29 management's web site.

30 (a) The standard tort claim form must, at a minimum, require the
31 following information:

- 32 (i) The claimant's name, date of birth, and contact information;
33 (ii) A description of the conduct and the circumstances that
34 brought about the injury or damage;
35 (iii) A description of the injury or damage;
36 (iv) A statement of the time and place that the injury or damage
37 occurred;

1 (v) A listing of the names of all persons involved and contact
2 information, if known;

3 (vi) A statement of the amount of damages claimed; and

4 (vii) A statement of the actual residence of the claimant at the
5 time of presenting the claim and at the time the claim arose.

6 (b) The standard tort claim form must be signed either:

7 (i) By the claimant, verifying the claim;

8 (ii) Pursuant to a written power of attorney, by the attorney in
9 fact for the claimant;

10 (iii) By an attorney admitted to practice in Washington state on
11 the claimant's behalf; or

12 (iv) By a court-approved guardian or guardian ad litem on behalf of
13 the claimant.

14 (c) Local governmental entities shall make available the standard
15 tort claim form described in this section with instructions on how the
16 form is to be presented and the name, address, and business hours of
17 the agent of the local governmental entity. If a local governmental
18 entity chooses to also make available its own tort claim form in lieu
19 of the standard tort claim form, the form:

20 (i) May require additional information beyond what is specified
21 under this section, but the local governmental entity may not deny a
22 claim because of the claimant's failure to provide that additional
23 information;

24 (ii) Must not require the claimant's social security number; and

25 (iii) Must include instructions on how the form is to be presented
26 and the name, address, and business hours of the agent of the local
27 governmental entity appointed to receive the claim.

28 (d) If any claim form provided by the local governmental entity
29 fails to require the information specified in this section, or
30 incorrectly lists the agent with whom the claim is to be filed, the
31 local governmental entity is deemed to have waived any defense related
32 to the failure to provide that specific information or to present the
33 claim to the proper designated agent.

34 (e) Presenting either the standard tort claim form or the local
35 government tort claim form satisfies the requirements of this chapter.

36 (f) The amount of damages stated on the claim form is not
37 admissible at trial.

1 (4) No action subject to the claim filing requirements of this
2 section shall be commenced against any local governmental entity, or
3 against any local governmental entity's officers, employees, or
4 volunteers, acting in such capacity, for damages arising out of
5 tortious conduct until sixty calendar days have elapsed after the claim
6 has first been presented to the agent of the governing body thereof.
7 The applicable period of limitations within which an action must be
8 commenced shall be tolled during the sixty calendar day period. For
9 the purposes of the applicable period of limitations, an action
10 commenced within five court days after the sixty calendar day period
11 has elapsed is deemed to have been presented on the first day after the
12 sixty calendar day period elapsed.

13 (5) With respect to the content of claims under this section and
14 all procedural requirements in this section, this section must be
15 liberally construed so that substantial compliance will be deemed
16 satisfactory.

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