
SENATE BILL 5721

State of Washington

66th Legislature

2019 Regular Session

By Senators Fortunato and Padden

Read first time 01/30/19. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to the regulation of abortion facilities; adding
2 a new chapter to Title 70 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

7 (1) "Abortion facility" means any place where abortions are
8 performed, except medical facilities licensed and regulated by the
9 state on the effective date of this section, including hospitals
10 licensed under chapters 70.41 and 71.12 RCW and ambulatory surgical
11 facilities licensed under chapter 70.230 RCW.

12 (2) "Department" means the department of health.

13 (3) "Person" means an individual, firm, partnership, corporation,
14 company, association, joint stock association, and the legal
15 successor thereof.

16 (4) "Practitioner" means any physician or surgeon licensed under
17 chapter 18.71 RCW or an osteopathic physician or surgeon licensed
18 under chapter 18.57 RCW.

19 (5) "Secretary" means the secretary of health.

20 NEW SECTION. **Sec. 2.** The secretary shall:

- 1 (1) Issue a license to any abortion facility that:
- 2 (a) Submits payment of the fee established in RCW 43.70.110 and
- 3 43.70.250;
- 4 (b) Submits a completed application that demonstrates the ability
- 5 to comply with the standards established for operating and
- 6 maintaining an abortion facility in statute and rule. An abortion
- 7 facility must be deemed to have met the standards if it submits proof
- 8 of accreditation by an organization that the secretary has determined
- 9 to have substantially equivalent standards to those of the
- 10 department; and
- 11 (c) Successfully completes the survey requirements established in
- 12 this chapter;
- 13 (2) Develop an application form for applicants for a license to
- 14 operate an abortion facility;
- 15 (3) Initiate investigations and enforcement actions for
- 16 complaints or other information regarding failure to comply with this
- 17 chapter or the standards and rules adopted under this chapter;
- 18 (4) Conduct surveys of abortion facilities, including reviews of
- 19 medical records and documents required to be maintained under this
- 20 chapter or rules adopted under this chapter;
- 21 (5) By March 1, 2020, determine which accreditation organizations
- 22 have substantially equivalent standards for purposes of deeming
- 23 specific licensing requirements required in statute and rule as
- 24 having met the department's standards for operating and maintaining
- 25 an abortion facility; and
- 26 (6) Adopt any rules necessary to implement this chapter.

27 NEW SECTION. **Sec. 3.** After January 1, 2020, a person or

28 governmental unit of the state of Washington, acting separately or

29 jointly with any other person or governmental unit, may not

30 establish, maintain, or conduct an abortion facility in this state

31 without a license issued by the department under this chapter.

32 NEW SECTION. **Sec. 4.** (1) An applicant for a license to operate

33 an abortion facility must demonstrate the ability to comply with the

34 standards established for operating and maintaining an abortion

35 facility in statute and rule, including:

- 36 (a) Submitting a written application to the department providing
- 37 all necessary information on a form provided by the department;

1 (b) Submitting building plans for review and approval by the
2 department for new construction, alterations other than minor
3 alterations, and additions to existing abortion facilities, prior to
4 obtaining a license and occupying the building;

5 (c) Demonstrating the ability to comply with this chapter and any
6 rules adopted under this chapter;

7 (d) Cooperating with the department during on-site surveys prior
8 to obtaining an initial license or renewing an existing license;

9 (e) Providing such proof as the department may require concerning
10 the ownership and management of the abortion facility, including
11 information about the organization and governance of the abortion
12 facility and the identity of the applicant, officers, directors,
13 partners, managing employees, or owners of ten percent or more of the
14 applicant's assets;

15 (f) Submitting proof of operation of a coordinated quality
16 improvement program in accordance with this chapter;

17 (g) Submitting a copy of the abortion facility safety and
18 emergency training program established under this chapter;

19 (h) Paying any fees established by the secretary under RCW
20 43.70.110 and 43.70.250; and

21 (i) Providing any other information that the department may
22 reasonably require.

23 (2) A license is valid for three years, after which an abortion
24 facility must submit (a) an application for renewal of the license
25 upon forms provided by the department, and (b) the renewal fee as
26 established in RCW 43.70.110 and 43.70.250. The applicant must
27 demonstrate the ability to comply with the standards established for
28 operating and maintaining an abortion facility in statutes,
29 standards, and rules. The applicant must submit the license renewal
30 document no later than thirty days prior to the date of expiration of
31 the license.

32 (3) The applicant may demonstrate compliance with any of the
33 requirements of subsection (1) of this section by providing
34 satisfactory documentation to the secretary that it has met the
35 standards of an accreditation organization or federal agency that the
36 secretary has determined to have substantially equivalent standards
37 as the statutes and rules of this state.

1 NEW SECTION. **Sec. 5.** An abortion facility is required to have
2 an abortion facility safety and emergency training program. The
3 program must include:

4 (1) On-site equipment, medication, and trained personnel to
5 facilitate handling of services sought or provided, and to facilitate
6 the management of any medical emergency that might arise in
7 connection with services sought or provided;

8 (2) Written transfer agreements with local hospitals licensed
9 under chapter 70.41 RCW, approved by the abortion facility's medical
10 staff; and

11 (3) A procedural plan for handling medical emergencies that must
12 be available for review during surveys and inspections.

13 NEW SECTION. **Sec. 6.** (1) The secretary may deny, suspend, or
14 revoke the license of any abortion facility in any case in which the
15 secretary finds the applicant or registered entity knowingly made a
16 false statement of material fact in the application for the license
17 or any supporting data in any record required by this chapter or
18 matter under investigation by the department.

19 (2)(a) The secretary shall investigate complaints concerning
20 operation of an abortion facility without a license. The secretary
21 may issue a notice of intention to issue a cease and desist order to
22 any person whom the secretary has reason to believe is engaged in the
23 unlicensed operation of an abortion facility. If the secretary makes
24 a written finding of fact that the public interest will be
25 irreparably harmed by delay in issuing an order, the secretary may
26 issue a temporary cease and desist order. The person receiving a
27 temporary cease and desist order must be provided an opportunity for
28 a prompt hearing. The temporary cease and desist order must remain in
29 effect until further order of the secretary.

30 (b) Any person operating an abortion facility under this chapter
31 without a license is guilty of a misdemeanor, and each day of
32 operation of an unlicensed abortion facility constitutes a separate
33 offense.

34 (3) The secretary is authorized to deny, suspend, revoke, or
35 modify a license or provisional license in any case in which it finds
36 that there has been a failure or refusal to comply with the
37 requirements of this chapter or the standards or rules adopted under
38 this chapter. RCW 43.70.115 governs notice of a license denial,

1 revocation, suspension, or modification and provides the right to an
2 adjudicative proceeding.

3 (4) Pursuant to chapter 34.05 RCW, the secretary may assess
4 monetary penalties of a civil nature not to exceed one thousand
5 dollars per violation.

6 NEW SECTION. **Sec. 7.** (1) Every abortion facility shall maintain
7 a coordinated quality improvement program for the improvement of the
8 quality of health care services rendered to patients and the
9 identification and prevention of medical malpractice. The program
10 must include at least the following:

11 (a) The establishment of one or more quality improvement
12 committees with the responsibility to review the services rendered in
13 the abortion facility, both retrospectively and prospectively, in
14 order to improve the quality of medical care of patients and to
15 prevent medical malpractice. Different quality improvement committees
16 may be established as a part of the coordinated quality improvement
17 program to review different health care services. The committees
18 shall oversee and coordinate the quality improvement and medical
19 malpractice prevention program and ensure that information gathered
20 pursuant to the program is used to review and revise the policies and
21 procedures of the abortion facility;

22 (b) A process, including a medical staff privileges sanction
23 procedure which must be conducted substantially in accordance with
24 medical staff bylaws and applicable rules, regulations, or policies
25 of the medical staff, through which credentials, physical and mental
26 capacity, professional conduct, and competence in delivering health
27 care services are periodically reviewed as part of an evaluation of
28 staff privileges;

29 (c) The periodic review of the credentials, physical and mental
30 capacity, and competence in delivering health care services of all
31 persons who are employed or associated with the abortion facility;

32 (d) A procedure for the prompt resolution of grievances by
33 patients or their representatives related to accidents, injuries,
34 treatment, and other events that may result in claims of medical
35 malpractice;

36 (e) The maintenance and continuous collection of information
37 concerning the abortion facility's experience with negative health
38 care outcomes and incidents injurious to patients, patient
39 grievances, professional liability premiums, settlements, awards,

1 costs incurred by the abortion facility for patient injury
2 prevention, and safety improvement activities;

3 (f) The maintenance of relevant and appropriate information
4 gathered pursuant to (a) through (e) of this subsection concerning
5 individual practitioners within the practitioner's personnel or
6 credential file maintained by the abortion facility;

7 (g) Education programs dealing with quality improvement, patient
8 safety, medication errors, injury prevention, staff responsibility to
9 report professional misconduct, the legal aspects of patient care,
10 improved communication with patients, and causes of malpractice
11 claims for staff personnel engaged in patient care activities; and

12 (h) Policies to ensure compliance with the reporting requirements
13 of this section.

14 (2) Any person who, in substantial good faith, provides
15 information to further the purposes of the quality improvement and
16 medical malpractice prevention program or who, in substantial good
17 faith, participates on the quality improvement committee is not
18 subject to an action for civil damages or other relief as a result of
19 such activity. Any person or entity participating in a coordinated
20 quality improvement program that, in substantial good faith, shares
21 information or documents with one or more other programs, committees,
22 or boards under subsection (8) of this section is not subject to an
23 action for civil damages or other relief as a result of the activity.
24 For the purposes of this section, sharing information is presumed to
25 be in substantial good faith. However, the presumption may be
26 rebutted upon a showing of clear, cogent, and convincing evidence
27 that the information shared was knowingly false or deliberately
28 misleading.

29 (3)(a) Information and documents, including complaints and
30 incident reports, created specifically for, and collected and
31 maintained by, a quality improvement committee are not subject to
32 review or disclosure, except as provided in this section, or
33 discovery or introduction into evidence in any civil action, and a
34 person who was in attendance at a meeting of such committee or who
35 participated in the creation, collection, or maintenance of
36 information or documents specifically for the committee may not be
37 permitted or required to testify in any civil action as to the
38 content of such proceedings or the documents and information prepared
39 specifically for the committee.

40 (b) This subsection does not preclude:

1 (i) In any civil action, the discovery of the identity of persons
2 involved in the medical care that is the basis of the civil action
3 whose involvement was independent of any quality improvement
4 activity;

5 (ii) In any civil action, the testimony of any person concerning
6 the facts which form the basis for the institution of such
7 proceedings of which the person had personal knowledge acquired
8 independently of such proceedings;

9 (iii) In any civil action by a health care provider regarding the
10 restriction or revocation of that individual's clinical or staff
11 privileges, introduction into evidence of information collected and
12 maintained by quality improvement committees regarding such health
13 care provider;

14 (iv) In any civil action, disclosure of the fact that staff
15 privileges were terminated or restricted, including the specific
16 restrictions imposed, if any, and the reasons for the restrictions;
17 or

18 (v) In any civil action, discovery and introduction into evidence
19 of the patient's medical records required by rule of the department
20 to be made regarding the care and treatment received.

21 (4) Each quality improvement committee shall, on at least a
22 semiannual basis, report to the management of the abortion facility,
23 as identified in the abortion facility's application, in which the
24 committee is located. The report must review the quality improvement
25 activities conducted by the committee, and any actions taken as a
26 result of those activities.

27 (5) The department shall adopt such rules as are deemed
28 appropriate to effectuate the purposes of this section.

29 (6) The medical quality assurance commission or the board of
30 osteopathic medicine and surgery, as appropriate, may review and
31 audit the records of committee decisions in which a practitioner's
32 privileges are terminated or restricted. Each abortion facility shall
33 produce and make accessible to the commission or board the
34 appropriate records and otherwise facilitate the review and audit.
35 Information so gained is not subject to the discovery process and
36 confidentiality must be respected as required by subsection (3) of
37 this section. Failure of an abortion facility to comply with this
38 subsection is punishable by a civil penalty not to exceed two hundred
39 fifty dollars.

1 (7) The department and any accrediting organization may review
2 and audit the records of a quality improvement committee or peer
3 review committee in connection with their inspection and review of
4 the abortion facility. Information so obtained is not subject to the
5 discovery process, and confidentiality must be respected as required
6 by subsection (3) of this section. Each abortion facility shall
7 produce and make accessible to the department the appropriate records
8 and otherwise facilitate the review and audit.

9 (8) A coordinated quality improvement program may share
10 information and documents, including complaints and incident reports,
11 created specifically for, and collected and maintained by, a quality
12 improvement committee or a peer review committee under RCW 4.24.250
13 with one or more other coordinated quality improvement programs
14 maintained in accordance with this section or RCW 43.70.510 or
15 70.41.200, a quality assurance committee maintained in accordance
16 with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW
17 4.24.250, for the improvement of the quality of health care services
18 rendered to patients and the identification and prevention of medical
19 malpractice. The privacy protections of chapter 70.02 RCW and the
20 federal health insurance portability and accountability act of 1996
21 and its implementing regulations apply to the sharing of individually
22 identifiable patient information held by a coordinated quality
23 improvement program. Any rules necessary to implement this section
24 must meet the requirements of applicable federal and state privacy
25 laws. Information and documents disclosed by one coordinated quality
26 improvement program to another coordinated quality improvement
27 program or a peer review committee under RCW 4.24.250 and any
28 information and documents created or maintained as a result of the
29 sharing of information and documents are not subject to the discovery
30 process and confidentiality must be respected as required by
31 subsection (3) of this section, RCW 18.20.390 (6) and (8),
32 70.41.200(3), 74.42.640 (7) and (9), and 4.24.250.

33 (9) An abortion facility that participates in a coordinated
34 quality improvement program under RCW 43.70.510 must be deemed to
35 have met the requirements of this section.

36 (10) Violation of this section must not be considered negligence
37 per se.

38 NEW SECTION. **Sec. 8.** The department shall establish and adopt
39 such minimum standards and rules pertaining to the construction,

1 maintenance, and operation of abortion facilities, and rescind,
2 amend, or modify such rules, as are necessary in the public interest,
3 and particularly for the establishment and maintenance of standards
4 of patient care required for the safe and adequate care and treatment
5 of patients. In establishing the format and content of these
6 standards and rules, the department must give consideration to
7 maintaining consistency with the minimum standards and rules
8 applicable to abortion facilities in the survey standards of
9 accrediting organizations or federal agencies that the secretary has
10 determined to have substantially equivalent standards as the statutes
11 and rules of this state.

12 NEW SECTION. **Sec. 9.** (1) The department shall make or cause to
13 be made a survey of all abortion facilities no more than once every
14 eighteen months.

15 (2) Every survey of an abortion facility may include an
16 inspection of every part of the surgical facility. The department may
17 make an examination of all phases of the abortion facility operation
18 necessary to determine compliance with all applicable statutes,
19 rules, and regulations. In the event that the department is unable to
20 make a survey or cause a survey to be made during the three years of
21 the term of the license, the license of the abortion facility must
22 remain in effect until the state conducts a survey or a substitute
23 survey is performed if the abortion facility is in compliance with
24 all other licensing requirements.

25 (3) Abortion facilities shall make the written reports of surveys
26 conducted by an approved accrediting organization available to
27 department surveyors during any department surveys or upon request.

28 NEW SECTION. **Sec. 10.** The department shall require abortion
29 facilities to submit data related to the quality of patient care for
30 review by the department. The data must be submitted every eighteen
31 months. The department shall consider the reporting standards of
32 other public and private organizations that measure quality in order
33 to maintain consistency in reporting and minimize the burden on the
34 abortion facility. The department shall review the data to determine
35 the maintenance of quality patient care at the abortion facility. If
36 the department determines that the care offered at the abortion
37 facility might present a risk to the health and safety of patients,
38 the department may conduct an inspection of the abortion facility and

1 initiate appropriate actions to protect the public. Information
2 submitted to the department pursuant to this section is exempt from
3 disclosure under chapter 42.56 RCW.

4 NEW SECTION. **Sec. 11.** (1) The chief administrator or executive
5 officer of an abortion facility shall report to the department when
6 the practice of a health care provider licensed by a disciplining
7 authority under RCW 18.130.040 is restricted, suspended, limited, or
8 terminated based upon a conviction, determination, or finding by the
9 abortion facility that the provider has committed an action defined
10 as unprofessional conduct under RCW 18.130.180. The chief
11 administrator or executive officer shall also report any voluntary
12 restriction or termination of the practice of a health care provider
13 licensed by a disciplining authority under RCW 18.130.040 while the
14 provider is under investigation or the subject of a proceeding by the
15 abortion facility regarding unprofessional conduct, or in return for
16 the abortion facility not conducting such an investigation or
17 proceeding or not taking action. The department shall forward the
18 report to the appropriate disciplining authority.

19 (2) Reports made under subsection (1) of this section must be
20 made within fifteen days of the date of: (a) A conviction,
21 determination, or finding by the abortion facility that the health
22 care provider has committed an action defined as unprofessional
23 conduct under RCW 18.130.180; or (b) acceptance by the abortion
24 facility of the voluntary restriction or termination of the practice
25 of a health care provider, including his or her voluntary
26 resignation, while under investigation or the subject of proceedings
27 regarding unprofessional conduct under RCW 18.130.180.

28 (3) Failure of an abortion facility to comply with this section
29 is punishable by a civil penalty not to exceed two hundred fifty
30 dollars.

31 (4) An abortion facility, its chief administrator, or its
32 executive officer who files a report under this section is immune
33 from suit, whether direct or derivative, in any civil action related
34 to the filing or contents of the report, unless the conviction,
35 determination, or finding on which the report and its content are
36 based is proven to not have been made in good faith. The prevailing
37 party in any action brought alleging that the conviction,
38 determination, finding, or report was not made in good faith is

1 entitled to recover the costs of litigation, including reasonable
2 attorneys' fees.

3 (5) The department shall forward reports made under subsection
4 (1) of this section to the appropriate disciplining authority
5 designated under Title 18 RCW within fifteen days of the date the
6 report is received by the department. The department shall notify an
7 abortion facility that has made a report under subsection (1) of this
8 section of the results of the disciplining authority's case
9 disposition decision within fifteen days after the case disposition.
10 Case disposition is the decision whether to issue a statement of
11 charges, take informal action, or close the complaint without action
12 against a provider. In its biennial report to the legislature under
13 RCW 18.130.310, the department shall specifically identify the case
14 dispositions of reports made by abortion facilities under subsection
15 (1) of this section.

16 NEW SECTION. **Sec. 12.** Each abortion facility shall keep written
17 records of decisions to restrict or terminate privileges of
18 practitioners. Copies of such records must be made available to the
19 medical quality assurance commission or the board of osteopathic
20 medicine and surgery, within thirty days of a request, and all
21 information so gained remains confidential in accordance with
22 sections 7 and 11 of this act and is protected from the discovery
23 process. Failure of an abortion facility to comply with this section
24 is punishable by a civil penalty not to exceed two hundred fifty
25 dollars.

26 NEW SECTION. **Sec. 13.** (1) Prior to granting or renewing
27 clinical privileges or association of any practitioner or hiring a
28 practitioner, an abortion facility approved pursuant to this chapter
29 must request from the practitioner, and the practitioner must
30 provide, the following information:

31 (a) The name of any hospital, abortion facility, or other
32 facility with or at which the practitioner had or has any
33 association, employment, privileges, or practice during the prior
34 five years. However, the abortion facility may request additional
35 information going back further than five years, and the practitioner
36 must use his or her best efforts to comply with such a request for
37 additional information;

1 (b) Whether the practitioner has ever been or is in the process
2 of being denied, revoked, terminated, suspended, restricted, reduced,
3 limited, sanctioned, placed on probation, monitored, or not renewed
4 for any professional activity listed in (b)(i) through (x) of this
5 subsection, or has ever voluntarily or involuntarily relinquished,
6 withdrawn, or failed to proceed with an application for any
7 professional activity listed in (b)(i) through (x) of this subsection
8 in order to avoid an adverse action or to preclude an investigation
9 or while under investigation relating to professional competence or
10 conduct:

11 (i) License to practice any profession in any jurisdiction;

12 (ii) Other professional registration or certification in any
13 jurisdiction;

14 (iii) Specialty or subspecialty board certification;

15 (iv) Membership on any hospital medical staff;

16 (v) Clinical privileges at any facility, including hospitals,
17 abortion centers, or skilled nursing facilities;

18 (vi) Medicare, medicaid, the food and drug administration, the
19 national institute of health, the office for human research
20 protections, any governmental, national, or international regulatory
21 agency, or any public program;

22 (vii) Professional society membership or fellowship;

23 (viii) Participation or membership in a health maintenance
24 organization, preferred provider organization, independent practice
25 association, physician hospital organization, or other entity;

26 (ix) Academic appointment; or

27 (x) Authority to prescribe controlled substances (drug
28 enforcement agency or other authority);

29 (c) Any pending professional medical misconduct proceedings or
30 any pending medical malpractice actions in this state or another
31 state, the substance of the allegations in the proceedings or
32 actions, and any additional information concerning the proceedings or
33 actions as the practitioner deems appropriate;

34 (d) The substance of the findings in the actions or proceedings
35 and any additional information concerning the actions or proceedings
36 as the practitioner deems appropriate;

37 (e) A waiver by the practitioner of any confidentiality
38 provisions concerning the information required to be provided to
39 abortion facilities pursuant to this subsection; and

1 (f) A verification by the practitioner that the information
2 provided by the practitioner is accurate and complete.

3 (2) Prior to granting privileges or association to any
4 practitioner or hiring a practitioner, an abortion facility approved
5 under this chapter shall request from any hospital, abortion
6 facility, or abortion facility with or at which the practitioner had
7 or has privileges, was associated, or was employed, during the
8 preceding five years, the following information concerning the
9 practitioner:

10 (a) Any pending professional medical misconduct proceedings or
11 any pending medical malpractice actions, in this state or another
12 state;

13 (b) Any judgment or settlement of a medical malpractice action
14 and any finding of professional misconduct in this state or another
15 state by a licensing or disciplinary board; and

16 (c) Any information required to be reported by hospitals or
17 abortion facilities pursuant to RCW 18.130.070.

18 (3) The medical quality assurance commission or board of
19 osteopathic medicine and surgery as appropriate, must be advised
20 within thirty days of the name of any practitioner denied staff
21 privileges, association, or employment on the basis of adverse
22 findings under subsection (1) of this section.

23 (4) A hospital, abortion facility, or other facility that
24 receives a request for information from another hospital, abortion
25 facility, or other facility pursuant to subsections (1) and (2) of
26 this section shall provide the information concerning the
27 practitioner in question to the extent the information is known to
28 the hospital, abortion facility, or other facility receiving such a
29 request, including the reasons for suspension, termination, or
30 curtailment of employment or privileges at the hospital, abortion
31 facility, or other facility. A hospital, abortion facility, other
32 facility, or other person providing such information in good faith is
33 not liable in any civil action for the release of such information.

34 (5)(a) Information and documents, including complaints and
35 incident reports, created specifically for, and collected and
36 maintained by, a quality improvement committee are not subject to
37 discovery or introduction into evidence in any civil action, and a
38 person who was in attendance at a meeting of such committee or who
39 participated in the creation, collection, or maintenance of
40 information or documents specifically for the committee may not be

1 permitted or required to testify in any civil action as to the
2 content of the proceedings or the documents and information prepared
3 specifically for the committee.

4 (b) This subsection does not preclude:

5 (i) In any civil action, the discovery of the identity of persons
6 involved in the medical care that is the basis of the civil action
7 whose involvement was independent of any quality improvement
8 activity;

9 (ii) In any civil action, the testimony of any person concerning
10 the facts which form the basis for the institution of such
11 proceedings of which the person had personal knowledge acquired
12 independently of such proceedings;

13 (iii) In any civil action by a health care provider regarding the
14 restriction or revocation of that individual's clinical or staff
15 privileges, introduction into evidence information collected and
16 maintained by quality improvement committees regarding such health
17 care provider;

18 (iv) In any civil action, disclosure of the fact that staff
19 privileges were terminated or restricted, including the specific
20 restrictions imposed, if any, and the reasons for the restrictions;
21 or

22 (v) In any civil action, discovery and introduction into evidence
23 of the patient's medical records required by rule of the department
24 to be made regarding the care and treatment received.

25 (6) Abortion facilities must be granted access to information
26 held by the medical quality assurance commission or board of
27 osteopathic medicine and surgery pertinent to decisions of the
28 abortion facility regarding credentialing and recredentialing of
29 practitioners.

30 (7) Violation of this section must not be considered negligence
31 per se.

32 NEW SECTION. **Sec. 14.** An abortion facility must have policies
33 in place to assure that, when appropriate, information about
34 unanticipated outcomes is provided to patients or their families or
35 any surrogate decision makers identified pursuant to RCW 7.70.065.
36 Notifications of unanticipated outcomes under this section do not
37 constitute an acknowledgment or admission of liability, nor may the
38 fact of notification, the content disclosed, or any and all

1 statements, affirmations, gestures, or conduct expressing apology be
2 introduced as evidence in a civil action.

3 NEW SECTION. **Sec. 15.** Every abortion facility shall post in
4 conspicuous locations a notice of the department's abortion facility
5 complaint toll-free telephone number. The form of the notice must be
6 approved by the department.

7 NEW SECTION. **Sec. 16.** Information received by the department
8 through filed reports, inspections, or as otherwise authorized under
9 this chapter may be disclosed publicly, as permitted under chapter
10 42.56 RCW, subject to the following provisions:

11 (1) Licensing inspections, or complaint investigations regardless
12 of findings, must, as requested, be disclosed no sooner than three
13 business days after the abortion facility has received the resulting
14 assessment report;

15 (2) Information regarding administrative action against the
16 licensee must, as requested, be disclosed after the abortion facility
17 has received the documents initiating the administrative action;

18 (3) Information about complaints that did not warrant an
19 investigation may not be disclosed except to notify the abortion
20 facility and the complainant that the complaint did not warrant an
21 investigation; and

22 (4) Information disclosed under this section may not disclose
23 individual names.

24 NEW SECTION. **Sec. 17.** Sections 1 through 16 of this act
25 constitute a new chapter in Title 70 RCW.

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