
ENGROSSED SUBSTITUTE HOUSE BILL 1589

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Backlund and Dyer)

Read first time 03/01/95.

1 AN ACT Relating to quality assurance; amending RCW 18.130.180 and
2 43.70.510; reenacting and amending RCW 42.17.310; adding new sections
3 to chapter 43.70 RCW; adding a new section to chapter 18.130 RCW;
4 adding a new section to chapter 48.43 RCW; creating a new section;
5 repealing RCW 70.170.100, 70.170.110, 70.170.120, 70.170.130,
6 70.170.140, 43.72.070, and 70.170.080; providing an effective date; and
7 declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** HOSPITAL DISCHARGE DATA--OTHER DATA
10 REQUIREMENTS. (1) To promote the public interest consistent with the
11 purposes of chapter 492, Laws of 1993 as amended by chapter . . . , Laws
12 of 1995 (this act), the department shall continue to require hospitals
13 to submit hospital financial and patient discharge information, which
14 shall be collected, maintained, analyzed, and disseminated by the
15 department. The department shall, if deemed cost-effective and
16 efficient, contract with a private entity for any or all parts of data
17 collection. Data elements shall be reported in conformance with a
18 uniform reporting system established by the department. This includes
19 data elements identifying each hospital's revenues, expenses,

1 contractual allowances, charity care, bad debt, other income, total
2 units of inpatient and outpatient services, and other financial
3 information reasonably necessary to fulfill the purposes of chapter
4 492, Laws of 1993 as amended by chapter . . ., Laws of 1995 (this act).
5 Data elements relating to use of hospital services by patients shall be
6 the same as those currently compiled by hospitals through inpatient
7 discharge abstracts. The department shall encourage and permit
8 reporting by electronic transmission or hard copy as is practical and
9 economical to reporters.

10 (2) In identifying financial reporting requirements, the department
11 may require both annual reports and condensed quarterly reports from
12 hospitals, so as to achieve both accuracy and timeliness in reporting,
13 but shall craft such requirements with due regard of the data reporting
14 burdens of hospitals.

15 (3) The health care data collected, maintained, and studied by the
16 department shall only be available for retrieval in original or
17 processed form to public and private requestors and shall be available
18 within a reasonable period of time after the date of request. The cost
19 of retrieving data for state officials and agencies shall be funded
20 through the state general appropriation. The cost of retrieving data
21 for individuals and organizations engaged in research or private use of
22 data or studies shall be funded by a fee schedule developed by the
23 department that reflects the direct cost of retrieving the data or
24 study in the requested form.

25 (4) The department shall, in consultation and collaboration with
26 the federally recognized tribes, urban or other Indian health service
27 organizations, and the federal area Indian health service, design,
28 develop, and maintain an American Indian-specific health data,
29 statistics information system. The department rules regarding
30 confidentiality shall apply to safeguard the information from
31 inappropriate use or release.

32 (5) All persons subject to the data collection requirements of
33 chapter 492, Laws of 1993 as amended shall comply with departmental
34 requirements established by rule in the acquisition of data.

35 NEW SECTION. **Sec. 2.** HEALTH CARE QUALITY--FINDINGS AND INTENT.
36 The legislature finds that it is difficult for consumers of health care
37 services to determine the quality of health care prior to purchase or
38 utilization of medical care. The legislature also finds that

1 accountability is a key component in promoting quality assurance and
2 quality improvement throughout the health care delivery system,
3 including public programs. Quality assurance and improvement standards
4 are necessary to promote the public interest, contribute to cost
5 efficiencies, and improve the ability of consumers to ascertain quality
6 health care purchases.

7 The legislature intends to have consumers, health carriers, health
8 care providers and facilities, and public agencies participate in the
9 development of quality assurance and improvement standards that can be
10 used to develop a uniform quality assurance program for use by all
11 public and private health plans, providers, and facilities. To that
12 end, in conducting the study required under section 3 of this act, the
13 department of health shall:

14 (1) Consider the needs of consumers, employers, health care
15 providers and facilities, and public and private health plans;

16 (2) Take full advantage of existing national standards of quality
17 assurance to extend to middle-income populations the protections
18 required for state management of health programs for low-income
19 populations;

20 (3) Consider the appropriate minimum level of quality assurance
21 standards that should be disclosed to consumers and employers by health
22 care providers and facilities, and public and private health plans; and

23 (4) Consider standards that permit health care providers and
24 facilities to share responsibility for participation in a uniform
25 quality assurance program.

26 NEW SECTION. **Sec. 3.** UNIFORM QUALITY ASSURANCE. (1) The
27 department of health shall study the feasibility of a uniform quality
28 assurance and improvement program for use by all public and private
29 health plans and health care providers and facilities. In this study,
30 the department shall consult with:

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

32 (b) Health carriers;

33 (c) Health care providers and facilities; and

34 (d) Consumers of health services.

35 (2) In conducting the study, the department shall propose standards
36 that meet the needs of affected persons and organizations, whether
37 public or private, without creation of differing levels of quality

1 assurance. All consumers of health services should be afforded the
2 same level of quality assurance.

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

6 (a) Health care provider training, credentialing, and licensure
7 standards;

8 (b) Health care facility credentialing and recredentialing;

9 (c) Staff ratios in health care facilities;

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

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

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

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

22 (h) Health plan fiscal performance standards;

23 (i) Health care provider and facility recordkeeping and reporting
24 standards;

25 (j) Health care utilization management that monitors trends in
26 health service under-utilization, as well as over-utilization of
27 services;

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

30 (l) Assessment of consumer satisfaction and disclosure of consumer
31 survey results.

32 (4) In conducting the study, the department shall develop standards
33 that permit each health care facility, provider group, or health
34 carrier to assume responsibility for and determine the physical method
35 of collection, storage, and assimilation of quality indicators for
36 consumer disclosure. The study may define the forms, frequency, and
37 posting requirements for disclosure of information.

38 In developing proposed standards under this subsection, the
39 department shall identify options that would minimize provider burden

1 and administrative cost resulting from duplicative private sector data
2 submission requirements. Duplicative burdens imposed by state agencies
3 shall be addressed pursuant to section 4 of this act.

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

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

12 NEW SECTION. **Sec. 4.** QUALITY ASSURANCE--INTERAGENCY COOPERATION--
13 ELIMINATION AND COORDINATION OF DUPLICATE STATE PROGRAMS. No later
14 than July 1, 1995, the department of health together with the health
15 care authority, the department of social and health services, the
16 office of the insurance commissioner, and the department of labor and
17 industries shall form an interagency group for coordination and
18 consultation on quality assurance activities and collaboration on final
19 recommendations for the study required under section 3 of this act. By
20 December 31, 1996, the group shall review all state agency programs
21 governing health service quality assurance, in light of legislative
22 actions pursuant to section 3(6) of this act, and shall recommend to
23 the legislature, the consolidation, coordination, or elimination of
24 rules and programs that would be made unnecessary pursuant to the
25 development of a uniform quality assurance and improvement program.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.130 RCW
27 to read as follows:

28 PRESERVATION OF ETHICAL STANDARDS IN MANAGED CARE CONTRACTING. (1)
29 Any quality assurance commission, professional regulatory board,
30 committee, or professional association for professions subject to RCW
31 18.130.040, or any other person, may recommend to the secretary the
32 adoption of rules providing for standards of ethical conduct with
33 respect to the terms and conditions of a contract or agreement between
34 a practitioner subject to RCW 18.130.040 and a payer of health
35 services, including but not limited to a carrier regulated under Title
36 48 RCW. Recommendations shall be considered by the secretary only if
37 the proposed rule would foster strict compliance with standards of

1 patient care, professional conduct, and scopes of practice; would
2 promote quality medical and health practice; or would protect the
3 public health and safety.

4 (2) The secretary is authorized to adopt rules, pursuant to chapter
5 34.05 RCW, based upon recommendations made in accordance with
6 subsection (1) of this section. When practical and appropriate and
7 with the approval of the appropriate commission, board, or committee,
8 the secretary shall apply the rules to all practitioners subject to RCW
9 18.130.040 to promote consistent standards for contracting process
10 between such practitioners and payers of health services.

11 **Sec. 6.** RCW 18.130.180 and 1993 c 367 s 22 are each amended to
12 read as follows:

13 UNPROFESSIONAL CONDUCT--MODIFIED. The following conduct, acts, or
14 conditions constitute unprofessional conduct for any license holder or
15 applicant under the jurisdiction of this chapter:

16 (1) The commission of any act involving moral turpitude,
17 dishonesty, or corruption relating to the practice of the person's
18 profession, whether the act constitutes a crime or not. If the act
19 constitutes a crime, conviction in a criminal proceeding is not a
20 condition precedent to disciplinary action. Upon such a conviction,
21 however, the judgment and sentence is conclusive evidence at the
22 ensuing disciplinary hearing of the guilt of the license holder or
23 applicant of the crime described in the indictment or information, and
24 of the person's violation of the statute on which it is based. For the
25 purposes of this section, conviction includes all instances in which a
26 plea of guilty or nolo contendere is the basis for the conviction and
27 all proceedings in which the sentence has been deferred or suspended.
28 Nothing in this section abrogates rights guaranteed under chapter 9.96A
29 RCW;

30 (2) Misrepresentation or concealment of a material fact in
31 obtaining a license or in reinstatement thereof;

32 (3) All advertising which is false, fraudulent, or misleading;

33 (4) Incompetence, negligence, or malpractice which results in
34 injury to a patient or which creates an unreasonable risk that a
35 patient may be harmed. The use of a nontraditional treatment by itself
36 shall not constitute unprofessional conduct, provided that it does not
37 result in injury to a patient or create an unreasonable risk that a
38 patient may be harmed;

1 (5) Suspension, revocation, or restriction of the individual's
2 license to practice the profession by competent authority in any state,
3 federal, or foreign jurisdiction, a certified copy of the order,
4 stipulation, or agreement being conclusive evidence of the revocation,
5 suspension, or restriction;

6 (6) The possession, use, prescription for use, or distribution of
7 controlled substances or legend drugs in any way other than for
8 legitimate or therapeutic purposes, diversion of controlled substances
9 or legend drugs, the violation of any drug law, or prescribing
10 controlled substances for oneself;

11 (7) Violation of any state or federal statute or administrative
12 rule regulating the profession in question, including any statute or
13 rule defining or establishing standards of patient care or professional
14 conduct or practice;

15 (8) Failure to cooperate with the disciplining authority by:

16 (a) Not furnishing any papers or documents;

17 (b) Not furnishing in writing a full and complete explanation
18 covering the matter contained in the complaint filed with the
19 disciplining authority; or

20 (c) Not responding to subpoenas issued by the disciplining
21 authority, whether or not the recipient of the subpoena is the accused
22 in the proceeding;

23 (9) Failure to comply with an order issued by the disciplinary
24 authority or a stipulation for informal disposition entered into with
25 the disciplinary authority;

26 (10) Aiding or abetting an unlicensed person to practice when a
27 license is required;

28 (11) Violations of rules established by any health agency;

29 (12) Practice beyond the scope of practice as defined by law or
30 rule;

31 (13) Misrepresentation or fraud in any aspect of the conduct of the
32 business or profession;

33 (14) Failure to adequately supervise auxiliary staff to the extent
34 that the consumer's health or safety is at risk;

35 (15) Engaging in a profession involving contact with the public
36 while suffering from a contagious or infectious disease involving
37 serious risk to public health;

38 (16) Promotion for personal gain of any unnecessary or
39 inefficacious drug, device, treatment, procedure, or service;

1 (17) Conviction of any gross misdemeanor or felony relating to the
2 practice of the person's profession. For the purposes of this
3 subsection, conviction includes all instances in which a plea of guilty
4 or nolo contendere is the basis for conviction and all proceedings in
5 which the sentence has been deferred or suspended. Nothing in this
6 section abrogates rights guaranteed under chapter 9.96A RCW;

7 (18) The procuring, or aiding or abetting in procuring, a criminal
8 abortion;

9 (19) The offering, undertaking, or agreeing to cure or treat
10 disease by a secret method, procedure, treatment, or medicine, or the
11 treating, operating, or prescribing for any health condition by a
12 method, means, or procedure which the licensee refuses to divulge upon
13 demand of the disciplining authority;

14 (20) The willful betrayal of a practitioner-patient privilege as
15 recognized by law;

16 (21) Violation of chapter 19.68 RCW;

17 (22) Interference with an investigation or disciplinary proceeding
18 by willful misrepresentation of facts before the disciplining authority
19 or its authorized representative, or by the use of threats or
20 harassment against any patient or witness to prevent them from
21 providing evidence in a disciplinary proceeding or any other legal
22 action;

23 (23) Current misuse of:

24 (a) Alcohol;

25 (b) Controlled substances; or

26 (c) Legend drugs;

27 (24) Abuse of a client or patient or sexual contact with a client
28 or patient;

29 (25) Acceptance of more than a nominal gratuity, hospitality, or
30 subsidy offered by a representative or vendor of medical or health-
31 related products or services intended for patients, in contemplation of
32 a sale or for use in research publishable in professional journals,
33 where a conflict of interest is presented, as defined by rules of the
34 disciplining authority, in consultation with the department, based on
35 recognized professional ethical standards;

36 (26) Violation of standards of ethics in contracting established
37 under section 5 of this act.

1 **Sec. 7.** RCW 42.17.310 and 1994 c 233 s 2 and 1994 c 182 s 1 are
2 each reenacted and amended to read as follows:

3 RECORDS EXEMPT FROM PUBLIC INSPECTION--MODIFIED. (1) The following
4 are exempt from public inspection and copying:

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

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

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

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

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

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

34 (g) Except as provided by chapter 8.26 RCW, the contents of real
35 estate appraisals, made for or by any agency relative to the
36 acquisition or sale of property, until the project or prospective sale
37 is abandoned or until such time as all of the property has been
38 acquired or the property to which the sale appraisal relates is sold,

1 but in no event shall disclosure be denied for more than three years
2 after the appraisal.

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

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

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

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

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

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

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

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

32 (p) Financial disclosures filed by private vocational schools under
33 chapter 28C.10 RCW.

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

37 (r) Financial and commercial information and records supplied by
38 businesses or individuals during application for loans or program
39 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 if the provider has provided the department with
34 an accurate alternative or business address and telephone number.

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

37 (y) Information obtained by the board of pharmacy or the department
38 of health and its representatives as provided in RCW 69.41.044,
39 69.41.280, and 18.64.420.

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

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

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

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

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

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

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

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

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

34 (2) Except for information described in subsection (1)(c)(i) of
35 this section and confidential income data exempted from public
36 inspection pursuant to RCW 84.40.020, the exemptions of this section
37 are inapplicable to the extent that information, the disclosure of
38 which would violate personal privacy or vital governmental interests,
39 can be deleted from the specific records sought. No exemption may be

1 construed to permit the nondisclosure of statistical information not
2 descriptive of any readily identifiable person or persons.

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

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

13 **Sec. 8.** RCW 43.70.510 and 1993 c 492 s 417 are each amended to
14 read as follows:

15 QUALITY IMPROVEMENT PROGRAMS--ADDING CERTAIN STATE AGENCIES AND
16 HEALTH CARRIERS. (1)(a) Health care institutions and medical
17 facilities, other than hospitals, that are licensed by the department,
18 professional societies or organizations, (~~and certified~~) health care
19 service contractors, health maintenance organizations, health ((plans))
20 carriers approved pursuant to ((RCW 43.72.100)) chapter 48.43 RCW, and
21 any other person or entity providing health care coverage under chapter
22 48.42 RCW that is subject to the jurisdiction and regulation of any
23 state agency or any subdivision thereof may maintain a coordinated
24 quality improvement program for the improvement of the quality of
25 health care services rendered to patients and the identification and
26 prevention of medical malpractice as set forth in RCW 70.41.200.

27 (b) All such programs shall comply with the requirements of RCW
28 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to
29 reflect the structural organization of the institution, facility,
30 professional societies or organizations, (~~or certified~~) health care
31 service contractors, health maintenance organizations, health ((plan))
32 carriers, or any other person or entity providing health care coverage
33 under chapter 48.42 RCW that is subject to the jurisdiction and
34 regulation of any state agency or any subdivision thereof, unless an
35 alternative quality improvement program substantially equivalent to RCW
36 70.41.200(1)(a) is developed. All such programs, whether complying
37 with the requirement set forth in RCW 70.41.200(1)(a) or in the form of
38 an alternative program, must be approved by the department before the

1 discovery limitations provided in subsections (3) and (4) of this
2 section and the exemption under RCW 42.17.310(1)(hh) and subsection (5)
3 of this section shall apply. In reviewing plans submitted by licensed
4 entities that are associated with physicians' offices, the department
5 shall ensure that the exemption under RCW 42.17.310(1)(hh) and the
6 discovery limitations of this section are applied only to information
7 and documents related specifically to quality improvement activities
8 undertaken by the licensed entity.

9 (2) Health care provider groups of ten or more providers may
10 maintain a coordinated quality improvement program for the improvement
11 of the quality of health care services rendered to patients and the
12 identification and prevention of medical malpractice as set forth in
13 RCW 70.41.200. All such programs shall comply with the requirements of
14 RCW 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to
15 reflect the structural organization of the health care provider group.
16 All such programs must be approved by the department before the
17 discovery limitations provided in subsections (3) and (4) of this
18 section and the exemption under RCW 42.17.310(1)(hh) and subsection (5)
19 of this section shall apply.

20 (3) Any person who, in substantial good faith, provides information
21 to further the purposes of the quality improvement and medical
22 malpractice prevention program or who, in substantial good faith,
23 participates on the quality improvement committee shall not be subject
24 to an action for civil damages or other relief as a result of such
25 activity.

26 (4) Information and documents, including complaints and incident
27 reports, created specifically for, and collected, and maintained by a
28 quality improvement committee are not subject to discovery or
29 introduction into evidence in any civil action, and no person who was
30 in attendance at a meeting of such committee or who participated in the
31 creation, collection, or maintenance of information or documents
32 specifically for the committee shall be permitted or required to
33 testify in any civil action as to the content of such proceedings or
34 the documents and information prepared specifically for the committee.
35 This subsection does not preclude: (a) In any civil action, the
36 discovery of the identity of persons involved in the medical care that
37 is the basis of the civil action whose involvement was independent of
38 any quality improvement activity; (b) in any civil action, the
39 testimony of any person concerning the facts that form the basis for

1 the institution of such proceedings of which the person had personal
2 knowledge acquired independently of such proceedings; (c) in any civil
3 action by a health care provider regarding the restriction or
4 revocation of that individual's clinical or staff privileges,
5 introduction into evidence information collected and maintained by
6 quality improvement committees regarding such health care provider; (d)
7 in any civil action challenging the termination of a contract by a
8 state agency with any entity maintaining a coordinated quality
9 improvement program under this section if the termination was on the
10 basis of quality of care concerns, introduction into evidence of
11 information created, collected, or maintained by the quality
12 improvement committees of the subject entity, which may be under terms
13 of a protective order as specified by the court; (e) in any civil
14 action, disclosure of the fact that staff privileges were terminated or
15 restricted, including the specific restrictions imposed, if any and the
16 reasons for the restrictions; or ~~((e))~~ (f) in any civil action,
17 discovery and introduction into evidence of the patient's medical
18 records required by rule of the department of health to be made
19 regarding the care and treatment received.

20 (5) Information and documents created specifically for, and
21 collected and maintained by a quality improvement committee are exempt
22 from disclosure under chapter 42.17 RCW.

23 (6) The department of health shall adopt rules as are necessary to
24 implement this section.

25 NEW SECTION. Sec. 9. A new section is added to chapter 48.43 RCW
26 to read as follows:

27 No public or private health care payer subject to the jurisdiction
28 of the state of Washington shall propose, issue, sign, or renew a
29 provider agreement or enrollee service agreement that contains a clause
30 whose effect, in any way, is to disclaim liability for the care
31 delivered or not delivered to an enrollee because of a decision of the
32 payer as to whether the care was a covered service, medically
33 necessary, economically provided, medically appropriate, or similar
34 consideration. Similarly, no clause shall attempt to shift liability
35 for harm caused by such payer decision as to whether care should be
36 delivered, as opposed to paid for, is between the provider and patient
37 alone as if the fact of whether or not care is paid for played little
38 or no role in a patient's decision to obtain care. Nothing in this

1 section shall be inferred to result in liability to anyone for the
2 payer's payment decisions that are consistent with the language of the
3 applicable service agreement or consistent with the cost-effective
4 delivery of health care. The intent of this section is only to prevent
5 payers from shifting their liability for payment decisions to either
6 providers, or enrollees, or both.

7 NEW SECTION. **Sec. 10.** REPEALERS. The following acts or parts of
8 acts are each repealed:

9 (1) RCW 70.170.100 and 1993 c 492 s 259, 1990 c 269 s 12, & 1989
10 1st ex.s. c 9 s 510;

11 (2) RCW 70.170.110 and 1993 c 492 s 260 & 1989 1st ex.s. c 9 s 511;

12 (3) RCW 70.170.120 and 1993 c 492 s 261;

13 (4) RCW 70.170.130 and 1993 c 492 s 262;

14 (5) RCW 70.170.140 and 1993 c 492 s 263;

15 (6) RCW 43.72.070 and 1993 c 492 s 409; and

16 (7) RCW 70.170.080 and 1993 sp.s. c 24 s 925, 1991 sp.s. c 13 s 71,
17 & 1989 1st ex.s. c 9 s 508.

18 NEW SECTION. **Sec. 11.** CODIFICATION. Sections 1 through 4 of this
19 act are each added to chapter 43.70 RCW.

20 NEW SECTION. **Sec. 12.** CAPTIONS. Captions as used in this act
21 constitute no part of the law.

22 NEW SECTION. **Sec. 13.** SEVERABILITY. If any provision of this act
23 or its application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 14.** EMERGENCY CLAUSE--EFFECTIVE DATE. This act
27 is necessary for the immediate preservation of the public peace,
28 health, or safety, or support of the state government and its existing
29 public institutions, and shall take effect July 1, 1995.

--- END ---