

2 ESHB 2264 - S AMD - 408
3 By Senator West

4 ADOPTED 4/17/97

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 41.05.021 and 1995 1st sp.s. c 6 s 7 are each amended
8 to read as follows:

9 (1) The Washington state health care authority is created within
10 the executive branch. The authority shall have an administrator
11 appointed by the governor, with the consent of the senate. The
12 administrator shall serve at the pleasure of the governor. The
13 administrator may employ up to seven staff members, who shall be exempt
14 from chapter 41.06 RCW, and any additional staff members as are
15 necessary to administer this chapter. The administrator may delegate
16 any power or duty vested in him or her by this chapter, including
17 authority to make final decisions and enter final orders in hearings
18 conducted under chapter 34.05 RCW. The primary duties of the authority
19 shall be to: Administer state employees' insurance benefits and
20 retired or disabled school employees' insurance benefits; administer
21 the basic health plan pursuant to chapter 70.47 RCW; study state-
22 purchased health care programs in order to maximize cost containment in
23 these programs while ensuring access to quality health care; and
24 implement state initiatives, joint purchasing strategies, and
25 techniques for efficient administration that have potential application
26 to all state-purchased health services. The authority's duties
27 include, but are not limited to, the following:

28 (a) To administer health care benefit programs for employees and
29 retired or disabled school employees as specifically authorized in RCW
30 41.05.065 and in accordance with the methods described in RCW
31 41.05.075, 41.05.140, and other provisions of this chapter;

32 (b) To analyze state-purchased health care programs and to explore
33 options for cost containment and delivery alternatives for those
34 programs that are consistent with the purposes of those programs,
35 including, but not limited to:

1 (i) Creation of economic incentives for the persons for whom the
2 state purchases health care to appropriately utilize and purchase
3 health care services, including the development of flexible benefit
4 plans to offset increases in individual financial responsibility;

5 (ii) Utilization of provider arrangements that encourage cost
6 containment, including but not limited to prepaid delivery systems,
7 utilization review, and prospective payment methods, and that ensure
8 access to quality care, including assuring reasonable access to local
9 providers, especially for employees residing in rural areas;

10 (iii) Coordination of state agency efforts to purchase drugs
11 effectively as provided in RCW 70.14.050;

12 (iv) Development of recommendations and methods for purchasing
13 medical equipment and supporting services on a volume discount basis;
14 and

15 (v) Development of data systems to obtain utilization data from
16 state-purchased health care programs in order to identify cost centers,
17 utilization patterns, provider and hospital practice patterns, and
18 procedure costs, utilizing the information obtained pursuant to RCW
19 41.05.031;

20 (c) To analyze areas of public and private health care interaction;

21 (d) To provide information and technical and administrative
22 assistance to the board;

23 (e) To review and approve or deny applications from counties,
24 municipalities, and other political subdivisions of the state to
25 provide state-sponsored insurance or self-insurance programs to their
26 employees in accordance with the provisions of RCW 41.04.205, setting
27 the premium contribution for approved groups as outlined in RCW
28 41.05.050;

29 (f) To appoint a health care policy technical advisory committee as
30 required by RCW 41.05.150;

31 (g) To establish billing procedures and collect funds from school
32 districts and educational service districts under RCW 28A.400.400 in a
33 way that minimizes the administrative burden on districts; and

34 (h) To promulgate and adopt rules consistent with this chapter as
35 described in RCW 41.05.160.

36 (2) On and after January 1, 1996, the public employees' benefits
37 board may implement strategies to promote managed competition among
38 employee health benefit plans. Strategies may include but are not
39 limited to:

- 1 (a) Standardizing the benefit package;
2 (b) Soliciting competitive bids for the benefit package;
3 (c) Limiting the state's contribution to a percent of the lowest
4 priced qualified plan within a geographical area;

5 (d) Monitoring the impact of the approach under this subsection
6 with regards to: Efficiencies in health service delivery, cost shifts
7 to subscribers, access to and choice of managed care plans state-wide,
8 and quality of health services. The health care authority shall also
9 advise on the value of administering a benchmark employer-managed plan
10 to promote competition among managed care plans. The health care
11 authority shall report its findings and recommendations to the
12 legislature by January 1, 1997.

13 (3) The health care authority shall, no later than July 1, 1996,
14 submit to the appropriate committees of the legislature, proposed
15 methods whereby, through the use of a voucher-type process, state
16 employees may enroll with any health carrier to receive employee
17 benefits. Such methods shall include the employee option of
18 participating in a health care savings account, as set forth in Title
19 48 RCW.

20 ~~((4) The Washington health care policy board shall study the
21 necessity and desirability of the health care authority continuing as
22 a self-insuring entity and make recommendations to the appropriate
23 committees of the legislature by December 1, 1996.))~~

24 **Sec. 2.** RCW 43.70.054 and 1995 c 267 s 2 are each amended to read
25 as follows:

26 (1) To promote the public interest consistent with chapter 267,
27 Laws of 1995, the department of health, in cooperation with the
28 ~~((health care policy board and the))~~ information services board
29 established under RCW 43.105.032, shall develop health care data
30 standards to be used by, and developed in collaboration with,
31 consumers, purchasers, health carriers, providers, and state government
32 as consistent with the intent of chapter 492, Laws of 1993 as amended
33 by chapter 267, Laws of 1995, to promote the delivery of quality health
34 services that improve health outcomes for state residents. The data
35 standards shall include content, coding, confidentiality, and
36 transmission standards for all health care data elements necessary to
37 support the intent of this section, and to improve administrative
38 efficiency and reduce cost. Purchasers, as allowed by federal law,

1 health carriers, health facilities and providers as defined in chapter
2 48.43 RCW, and state government shall utilize the data standards. The
3 information and data elements shall be reported as the department of
4 health directs by rule in accordance with data standards developed
5 under this section.

6 (2) The health care data collected, maintained, and studied by the
7 department under this section(~~(, the health care policy board,)~~) or any
8 other entity: (a) Shall include a method of associating all
9 information on health care costs and services with discrete cases; (b)
10 shall not contain any means of determining the personal identity of any
11 enrollee, provider, or facility; (c) shall only be available for
12 retrieval in original or processed form to public and private
13 requesters; (d) shall be available within a reasonable period of time
14 after the date of request; and (e) shall give strong consideration to
15 data standards that achieve national uniformity.

16 (3) The cost of retrieving data for state officials and agencies
17 shall be funded through state general appropriation. The cost of
18 retrieving data for individuals and organizations engaged in research
19 or private use of data or studies shall be funded by a fee schedule
20 developed by the department that reflects the direct cost of retrieving
21 the data or study in the requested form.

22 (4) All persons subject to this section shall comply with
23 departmental requirements established by rule in the acquisition of
24 data, however, the department shall adopt no rule or effect no policy
25 implementing the provisions of this section without an act of law.

26 (5) The department shall submit developed health care data
27 standards to the appropriate committees of the legislature by December
28 31, 1995.

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

31 (1) The department of health (~~(in consultation with the health~~
32 ~~policy board)~~) shall study the feasibility of a uniform quality
33 assurance and improvement program for use by all public and private
34 health plans and health care providers and facilities. In this study,
35 the department shall consult with:

- 36 (a) Public and private purchasers of health care services;
37 (b) Health carriers;
38 (c) Health care providers and facilities; and

1 (d) Consumers of health services.

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

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

10 (a) Health care provider training, credentialing, and licensure
11 standards;

12 (b) Health care facility credentialing and recredentialing;

13 (c) Staff ratios in health care facilities;

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

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

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

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

26 (h) Health plan fiscal performance standards;

27 (i) Health care provider and facility recordkeeping and reporting
28 standards;

29 (j) Health care utilization management that monitors trends in
30 health service underutilization, as well as overutilization of
31 services;

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

34 (l) Assessment of consumer satisfaction and disclosure of consumer
35 survey results.

36 (4) In conducting the study, the department shall develop standards
37 that permit each health care facility, provider group, or health
38 carrier to assume responsibility for and determine the physical method
39 of collection, storage, and assimilation of quality indicators for

1 consumer disclosure. The study may define the forms, frequency, and
2 posting requirements for disclosure of information.

3 In developing proposed standards under this subsection, the
4 department shall identify options that would minimize provider burden
5 and administrative cost resulting from duplicative private sector data
6 submission requirements.

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

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

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

17 ~~((No later than July 1, 1995, the health care policy board together
18 with)) The department of health, the health care authority, the
19 department of social and health services, the office of the insurance
20 commissioner, and the department of labor and industries shall form an
21 interagency group for coordination and consultation on quality
22 assurance activities and collaboration on final recommendations for the
23 study required under RCW 43.70.066. ((By December 31, 1996, the group
24 shall review all state agency programs governing health service quality
25 assurance, in light of legislative actions pursuant to RCW
26 43.70.066(6), and shall recommend to the legislature, the
27 consolidation, coordination, or elimination of rules and programs that
28 would be made unnecessary pursuant to the development of a uniform
29 quality assurance and improvement program.))~~

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.72 RCW
31 to read as follows:

32 As used in this chapter, "health carrier," "health care provider,"
33 "provider," "health plan," and "health care facility" have the same
34 meaning as provided in RCW 48.43.005.

35 **Sec. 6.** RCW 43.72.300 and 1993 c 492 s 447 are each amended to
36 read as follows:

1 (1) The legislature recognizes that competition among health care
2 providers, facilities, payers, and purchasers will yield the best
3 allocation of health care resources, the lowest prices for health care
4 services, and the highest quality of health care when there exists a
5 large number of buyers and sellers, easily comparable health ((care))
6 plans and services, minimal barriers to entry and exit into the health
7 care market, and adequate information for buyers and sellers to base
8 purchasing and production decisions. However, the legislature finds
9 that purchasers of health care services and health care coverage do not
10 have adequate information upon which to base purchasing decisions; that
11 health care facilities and providers of health care services face legal
12 and market disincentives to develop economies of scale or to provide
13 the most cost-efficient and efficacious service; that health insurers,
14 contractors, and health maintenance organizations face market
15 disincentives in providing health care coverage to those Washington
16 residents with the most need for health care coverage; and that
17 potential competitors in the provision of health care coverage bear
18 unequal burdens in entering the market for health care coverage.

19 (2) The legislature therefore intends to exempt from state anti-
20 trust laws, and to provide immunity from federal anti-trust laws
21 through the state action doctrine for activities approved under this
22 chapter that might otherwise be constrained by such laws and intends to
23 displace competition in the health care market: To contain the
24 aggregate cost of health care services; to promote the development of
25 comprehensive, integrated, and cost-effective health care delivery
26 systems through cooperative activities among health care providers and
27 facilities; to promote comparability of health care coverage; to
28 improve the cost-effectiveness in providing health care coverage
29 relative to health promotion, disease prevention, and the amelioration
30 or cure of illness; to assure universal access to a publicly
31 determined, uniform package of health care benefits; and to create
32 reasonable equity in the distribution of funds, treatment, and medical
33 risk among purchasers of health care coverage, payers of health care
34 services, providers of health care services, health care facilities,
35 and Washington residents. To these ends, any lawful action taken
36 pursuant to chapter 492, Laws of 1993 by any person or entity created
37 or regulated by chapter 492, Laws of 1993 are declared to be taken
38 pursuant to state statute and in furtherance of the public purposes of
39 the state of Washington.

1 (3) The legislature does not intend and unless explicitly permitted
2 in accordance with RCW 43.72.310 or under rules adopted pursuant to
3 chapter 492, Laws of 1993, does not authorize any person or entity to
4 engage in activities or to conspire to engage in activities that would
5 constitute per se violations of state and federal anti-trust laws
6 including but not limited to conspiracies or agreements:

7 (a) Among competing health care providers not to grant discounts,
8 not to provide services, or to fix the price of their services;

9 (b) Among ~~((certified))~~ health ~~((plans))~~ carriers as to the price
10 or level of reimbursement for health care services;

11 (c) Among ~~((certified))~~ health ~~((plans))~~ carriers to boycott a
12 group or class of health care service providers;

13 (d) Among purchasers of ~~((certified))~~ health plan coverage to
14 boycott a particular plan or class of plans;

15 (e) Among ~~((certified))~~ health ~~((plans))~~ carriers to divide the
16 market for health care coverage; or

17 (f) Among ~~((certified))~~ health ~~((plans))~~ carriers and purchasers to
18 attract or discourage enrollment of any Washington resident or groups
19 of residents in a ~~((certified))~~ health plan based upon the perceived or
20 actual risk of loss in including such resident or group of residents in
21 a ~~((certified))~~ health plan or purchasing group.

22 **Sec. 7.** RCW 43.72.310 and 1995 c 267 s 8 are each amended to read
23 as follows:

24 (1) ~~((Until May 8, 1995, and after June 30, 1996, a certified))~~ A
25 health ~~((plan))~~ carrier, health care facility, health care provider, or
26 other person involved in the development, delivery, or marketing of
27 health care or ~~((certified))~~ health plans may request, in writing, that
28 the ~~((commission))~~ department of health obtain an informal opinion from
29 the attorney general as to whether particular conduct is authorized by
30 chapter 492, Laws of 1993. Trade secret or proprietary information
31 contained in a request for informal opinion shall be identified as such
32 and shall not be disclosed other than to an authorized employee of the
33 ~~((commission))~~ department of health or attorney general without the
34 consent of the party making the request, except that information in
35 summary or aggregate form and market share data may be contained in the
36 informal opinion issued by the attorney general. The attorney general
37 shall issue such opinion within thirty days of receipt of a written
38 request for an opinion or within thirty days of receipt of any

1 additional information requested by the attorney general necessary for
2 rendering an opinion unless extended by the attorney general for good
3 cause shown. If the attorney general concludes that such conduct is
4 not authorized by chapter 492, Laws of 1993, the person or organization
5 making the request may petition the ~~((commission))~~ department of health
6 for review and approval of such conduct in accordance with subsection
7 (3) of this section.

8 (2) After obtaining the written opinion of the attorney general and
9 consistent with such opinion, the ~~((health services commission))~~
10 department of health:

11 (a) May authorize conduct by a ~~((certified))~~ health ~~((plan))~~
12 carrier, health care facility, health care provider, or any other
13 person that could tend to lessen competition in the relevant market
14 upon a strong showing that the conduct is likely to achieve the policy
15 goals of chapter 492, Laws of 1993 and a more competitive alternative
16 is impractical;

17 (b) Shall adopt rules governing conduct among providers, health
18 care facilities, and ~~((certified))~~ health ~~((plans))~~ carriers including
19 rules governing provider and facility contracts with ~~((certified))~~
20 health ~~((plans))~~ carriers, rules governing the use of "most favored
21 nation" clauses and exclusive dealing clauses in such contracts, and
22 rules providing that ~~((certified))~~ health ~~((plans))~~ carriers in rural
23 areas contract with a sufficient number and type of health care
24 providers and facilities to ensure consumer access to local health care
25 services;

26 (c) Shall adopt rules permitting health care providers within the
27 service area of a plan to collectively negotiate the terms and
28 conditions of contracts with a ~~((certified))~~ health ~~((plan))~~ carrier
29 including the ability of providers to meet and communicate for the
30 purposes of these negotiations; ~~((and))~~

31 (d) Shall adopt rules governing cooperative activities among health
32 care facilities and providers; and

33 (e) Effective July 1, 1997, in addition to the rule-making
34 authority granted to the department under this section, the department
35 shall have the authority to enforce and administer rules previously
36 adopted by the health services commission and the health care policy
37 board pursuant to RCW 43.72.310.

38 (3) ~~((Until May 8, 1995, and after June 30, 1996, a certified))~~ A
39 health ~~((plan))~~ carrier, health care facility, health care provider, or

1 any other person involved in the development, delivery, and marketing
2 of health care services or ((~~certified~~)) health plans may file a
3 written petition with the ((~~commission~~)) department of health
4 requesting approval of conduct that could tend to lessen competition in
5 the relevant market. Such petition shall be filed in a form and manner
6 prescribed by rule of the ((~~commission~~)) department of health.

7 The ((~~commission~~)) department of health shall issue a written
8 decision approving or denying a petition filed under this section
9 within ninety days of receipt of a properly completed written petition
10 unless extended by the ((~~commission~~)) department of health for good
11 cause shown. The decision shall set forth findings as to benefits and
12 disadvantages and conclusions as to whether the benefits outweigh the
13 disadvantages.

14 (4) In authorizing conduct and adopting rules of conduct under this
15 section, the ((~~commission~~)) department of health with the advice of the
16 attorney general, shall consider the benefits of such conduct in
17 furthering the goals of health care reform including but not limited
18 to:

- 19 (a) Enhancement of the quality of health services to consumers;
- 20 (b) Gains in cost efficiency of health services;
- 21 (c) Improvements in utilization of health services and equipment;
- 22 (d) Avoidance of duplication of health services resources; or
- 23 (e) And as to (b) and (c) of this subsection: (i) Facilitates the
24 exchange of information relating to performance expectations; (ii)
25 simplifies the negotiation of delivery arrangements and relationships;
26 and (iii) reduces the transactions costs on the part of ((~~certified~~))
27 health ((~~plans~~)) carriers and providers in negotiating more cost-
28 effective delivery arrangements.

29 These benefits must outweigh disadvantages including and not
30 limited to:

- 31 (i) Reduced competition among ((~~certified~~)) health ((~~plans~~))
32 carriers, health care providers, or health care facilities;
- 33 (ii) Adverse impact on quality, availability, or price of health
34 care services to consumers; or
- 35 (iii) The availability of arrangements less restrictive to
36 competition that achieve the same benefits.

37 (5) Conduct authorized by the ((~~commission~~)) department of health
38 shall be deemed taken pursuant to state statute and in the furtherance
39 of the public purposes of the state of Washington.

1 (6) With the assistance of the attorney general's office, the
2 ((commission)) department of health shall actively supervise any
3 conduct authorized under this section to determine whether such conduct
4 or rules permitting certain conduct should be continued and whether a
5 more competitive alternative is practical. The ((commission))
6 department of health shall periodically review petitioned conduct
7 through, at least, annual progress reports from petitioners, annual or
8 more frequent reviews by the ((commission)) department of health that
9 evaluate whether the conduct is consistent with the petition, and
10 whether the benefits continue to outweigh any disadvantages. If the
11 ((commission)) department of health determines that the likely benefits
12 of any conduct approved through rule, petition, or otherwise by the
13 ((commission)) department of health no longer outweigh the
14 disadvantages attributable to potential reduction in competition, the
15 ((commission)) department of health shall order a modification or
16 discontinuance of such conduct. Conduct ordered discontinued by the
17 ((commission)) department of health shall no longer be deemed to be
18 taken pursuant to state statute and in the furtherance of the public
19 purposes of the state of Washington.

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

24 (8) ~~((Only requests for informal opinions under subsection (1) of
25 this section and petitions under subsection (3) of this section that
26 were received prior to May 8, 1995, or after June 30, 1996, shall be
27 considered.))~~ The secretary of health shall from time to time
28 establish fees to accompany the filing of a petition or a written
29 request to the department to obtain an opinion from the attorney
30 general under this section and for the active supervision of conduct
31 approved under this section. Such fees may vary according to the size
32 of the transaction proposed in the petition or under active
33 supervision. In setting such fees, the secretary shall consider that
34 consumers and the public benefit when activities meeting the standards
35 of this section are permitted to proceed; the importance of assuring
36 that persons sponsoring beneficial activities are not foreclosed from
37 filing a petition under this section because of the fee; and the
38 necessity to avoid a conflict, or the appearance of a conflict, between
39 the interests of the department and the public. The total fee for a

1 petition under this section, a written request to the department to
2 obtain an opinion from the attorney general, or a combination of both
3 regarding the same conduct shall not exceed the level that will defray
4 the reasonable costs the department and attorney general incur in
5 considering a petition and in no event shall be greater than twenty-
6 five thousand dollars. The fee for review of approved conduct shall
7 not exceed the level that will defray the reasonable costs the
8 department and attorney general incur in conducting such a review and
9 in no event shall be greater than ten thousand dollars per annum. The
10 fees shall be fixed by rule adopted in accordance with the provisions
11 of the administrative procedure act, chapter 34.05 RCW, and shall be
12 deposited in the health professions account established in accordance
13 with RCW 43.70.320.

14 **Sec. 8.** RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996
15 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as
16 follows:

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

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

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

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

29 (d) Specific intelligence information and specific investigative
30 records compiled by investigative, law enforcement, and penology
31 agencies, and state agencies vested with the responsibility to
32 discipline members of any profession, the nondisclosure of which is
33 essential to effective law enforcement or for the protection of any
34 person's right to privacy.

35 (e) Information revealing the identity of persons who are witnesses
36 to or victims of crime or who file complaints with investigative, law
37 enforcement, or penology agencies, other than the public disclosure
38 commission, if disclosure would endanger any person's life, physical

1 safety, or property. If at the time a complaint is filed the
2 complainant, victim or witness indicates a desire for disclosure or
3 nondisclosure, such desire shall govern. However, all complaints filed
4 with the public disclosure commission about any elected official or
5 candidate for public office must be made in writing and signed by the
6 complainant under oath.

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

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

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

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

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

27 (k) Records, maps, or other information identifying the location of
28 archaeological sites in order to avoid the looting or depredation of
29 such sites.

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

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

38 (n) Railroad company contracts filed prior to July 28, 1991, with
39 the utilities and transportation commission under RCW 81.34.070, except

1 that the summaries of the contracts are open to public inspection and
2 copying as otherwise provided by this chapter.

3 (o) Financial and commercial information and records supplied by
4 private persons pertaining to export services provided pursuant to
5 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
6 export projects pursuant to RCW 43.23.035.

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

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

12 (r) Financial and commercial information and records supplied by
13 businesses or individuals during application for loans or program
14 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
15 or during application for economic development loans or program
16 services provided by any local agency.

17 (s) Membership lists or lists of members or owners of interests of
18 units in timeshare projects, subdivisions, camping resorts,
19 condominiums, land developments, or common-interest communities
20 affiliated with such projects, regulated by the department of
21 licensing, in the files or possession of the department.

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

25 (u) The residential addresses and residential telephone numbers of
26 employees or volunteers of a public agency which are held by the agency
27 in personnel records, employment or volunteer rosters, or mailing lists
28 of employees or volunteers.

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

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

1 the files of the department, if the provider requests that this
2 information be withheld from public inspection and copying, and
3 provides to the department an accurate alternate or business address
4 and business telephone number. On or after January 1, 1995, the
5 current residential address and residential telephone number of a
6 health care provider governed under RCW 18.130.140 maintained in the
7 files of the department shall automatically be withheld from public
8 inspection and copying unless the provider specifically requests the
9 information be released, and except as provided for under RCW
10 42.17.260(9).

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

13 (y) Information obtained by the board of pharmacy or the department
14 of health and its representatives as provided in RCW 69.41.044,
15 69.41.280, and 18.64.420.

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

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

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

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

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

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

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

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

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

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

13 (jj) Proprietary financial and commercial information that the
14 submitting entity, with review by the department of health,
15 specifically identifies at the time it is submitted and that is
16 provided to or obtained by the department of health in connection with
17 an application for, or the supervision of, an antitrust exemption
18 sought by the submitting entity under RCW 43.72.310. If a request for
19 such information is received, the submitting entity must be notified of
20 the request. Within ten business days of receipt of the notice, the
21 submitting entity shall provide a written statement of the continuing
22 need for confidentiality, which shall be provided to the requester.
23 Upon receipt of such notice, the department of health shall continue to
24 treat information designated under this section as exempt from
25 disclosure. If the requester initiates an action to compel disclosure
26 under this chapter, the submitting entity must be joined as a party to
27 demonstrate the continuing need for confidentiality.

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

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

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

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

7 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each
8 repealed:

9 (1) RCW 43.72.320 and 1995 c 267 s 10;

10 (2) RCW 43.73.010 and 1995 c 265 s 9;

11 (3) RCW 43.73.020 and 1995 c 265 s 10;

12 (4) RCW 43.73.030 and 1995 c 265 s 11;

13 (5) RCW 43.73.040 and 1995 c 265 s 12; and

14 (6) 1996 c 281 s 2 (uncodified).

15 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and takes effect
18 July 1, 1997.

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20 By Senator West

21 ADOPTED 4/17/97

22 On page 1, line 1 of the title, after "board;" strike the remainder
23 of the title and insert "amending RCW 41.05.021, 43.70.054, 43.70.066,
24 43.70.068, 43.72.300, and 43.72.310; reenacting and amending RCW
25 42.17.310; adding a new section to chapter 43.72 RCW; repealing RCW
26 43.72.320, 43.73.010, 43.73.020, 43.73.030, and 43.73.040; repealing
27 1996 c 281 s 2 (uncodified); providing an effective date; and declaring
28 an emergency."

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