

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5601**

63rd Legislature  
2013 Regular Session

Passed by the Senate April 24, 2013  
YEAS 45 NAYS 0

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**President of the Senate**

Passed by the House April 16, 2013  
YEAS 96 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5601** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5601**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

**State of Washington                      63rd Legislature                      2013 Regular Session**

**By** Senate Health Care (originally sponsored by Senators Becker, Cleveland, Dammeier, and Schlicher)

READ FIRST TIME 02/22/13.

1            AN ACT Relating to ensuring chapter 19.68 RCW is interpreted in a  
2 manner consistent with the federal antikickback statute; adding new  
3 sections to chapter 19.68 RCW; and creating new sections.

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

5            NEW SECTION.        **Sec. 1.**        (1) The legislature recognizes the  
6 complexity of the health care delivery system and the need to provide  
7 a clear and consistent regulatory framework to enable health care  
8 providers to manage their operations in an efficient and effective  
9 manner. The legislature also recognizes that the donation of  
10 electronic health records systems reduces health care costs, promotes  
11 patient safety, and improves the quality of health care.

12            (2) To further the important national policy of promoting the  
13 widespread adoption of electronic health records systems, the federal  
14 antikickback statute and the rules adopted to implement the statute  
15 contain a safe harbor that allows the donation of electronic health  
16 records systems. The federal statute and rules also contain additional  
17 safe harbors to preserve a variety of other activities which, in many  
18 cases, improve access to health care. For health care entities other

1 than clinical laboratories, the legality of all of these arrangements  
2 is currently in question.

3 (3) The legislature is adding language to chapter 19.68 RCW to  
4 clarifying existing law and ensure that, except with respect to  
5 arrangements involving an entity which principally operates as a  
6 clinical laboratory, it is interpreted in a manner consistent with the  
7 federal antikickback statute.

8 NEW SECTION. **Sec. 2.** (1) Nothing in this chapter may be construed  
9 to limit or prohibit the donation of electronic health record  
10 technology or other activity by any entity, including a hospital  
11 licensed under chapter 70.41 RCW that operates a clinical laboratory,  
12 when the donation or other activity is allowed by or otherwise does not  
13 violate, 42 U.S.C. Sec. 1320a-7b(b) or the federal rules adopted to  
14 implement 42 U.S.C. Sec. 1320a-7b(b).

15 (2) This section does not apply to any entity which principally  
16 operates as a clinical laboratory licensed or certified under section  
17 353 of the public health service act, 42 U.S.C. Sec. 263a, or other  
18 applicable Washington state law.

19 NEW SECTION. **Sec. 3.** The definitions in this section apply  
20 throughout this chapter unless the context clearly requires otherwise.

21 "Electronic health record technology" means items and services, in  
22 the form of software or information technology and training services,  
23 necessary and used predominantly to create, maintain, transmit, or  
24 receive electronic health records.

25 NEW SECTION. **Sec. 4.** This act applies retroactively to June 1,  
26 2006, as well as prospectively.

27 NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act are each added  
28 to chapter 19.68 RCW.

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