S-0393.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5152**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Fain, Keiser, Rivers, Becker, Palumbo, and Kuderer

AN ACT Relating to pediatric transitional care centers; amending RCW 42.56.360 and 42.56.360; adding a new chapter to Title 18 RCW; providing an effective date; providing an expiration date; and prescribing penalties.

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

NEW SECTION. **Sec.**  The legislature finds that more than twelve thousand infants born in Washington each year have been prenatally exposed to opiates, methamphetamines, and other drugs. Prenatal drug exposure frequently results in infants suffering from neonatal abstinence syndrome and its accompanying withdrawal symptoms after birth. Withdrawal symptoms may include sleep problems, excessive crying, tremors, seizures, poor feeding, fever, generalized convulsions, vomiting, diarrhea, and hyperactive reflexes. Consequently, the legislature finds that drug exposed infants have unique medical needs and benefit from specialized health care that addresses their withdrawal symptoms. Specialized care for infants experiencing neonatal abstinence syndrome is based on the individual needs of the infant and includes: Administration of intravenous fluids and drugs such as methadone or morphine; personalized, hands-on care such as gentle rocking, reduction in noise and lights, and swaddling; and frequent high-calorie feedings.

The legislature further finds that drug exposed infants often require hospitalization which burdens hospitals and hospital staff who either have to increase staffing levels or require current staff to take on additional duties to administer the specialized care needed by drug exposed infants.

The legislature further finds that drug exposed infants benefit from early and consistent family involvement in their care, and families thrive when they are provided the opportunity, skills, and training to help them participate in their child's care.

The legislature further finds that infants with neonatal abstinence syndrome often can be treated in a nonhospital clinic setting where they receive appropriate medical and nonmedical care for their symptoms. The legislature, therefore, intends to encourage alternatives to continued hospitalization for drug exposed infants, including the continuation and development of pediatric transitional care centers that provide short-term medical care as well as training and assistance to caregivers in order to support the transition from hospital to home for drug exposed infants.

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

(1) "Center-trained caregiver" means a person trained by the pediatric transitional care center to provide hands-on care to drug exposed infants. Caregivers may not provide medical care to infants and may only work under the supervision of a pediatrician, pediatric registered nurse practitioner, or registered nurse.

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

(3) "Pediatric transitional care center" or "center" means a care facility that provides short-term, temporary, health and comfort services for children and their caregivers according to the requirements of this chapter.

(4) "Secretary" means the secretary of the department of health.

NEW SECTION. **Sec.**  (1) A pediatric transitional care center license is established. To be licensed as a center, an applicant must demonstrate that it is capable of providing services for children who:

(a) Are no more than two years of age;

(b) Have been exposed to alcohol or other drugs before birth;

(c) Require twenty-four hour continuous residential care and skilled nursing services as a result of prenatal substance exposure; and

(d) Are referred to the center by the department of social and health services and regional hospitals.

(2) After July 1, 2018, no person may operate or maintain a pediatric interim care center without a license under this chapter.

NEW SECTION. **Sec.**  The secretary must, in coordination with the department of social and health services, adopt rules on pediatric transitional care centers. The rules must:

(1) Require centers to provide services consistent with the parental practice model used by the department of social and health services;

(2) Establish requirements for medical examinations and consultations to be delivered by a pediatrician or pediatric advanced registered nurse practitioner;

(3) Require centers to provide twenty-four hour medical supervision for children in its care in accordance with the staffing ratios established under subsection (4) of this section;

(4) Include staffing ratios that consider the number of registered nurses or licensed practical nurses employed by the facility and the number of center-trained caregivers on duty at the facility. These staffing ratios must establish:

(a) One registered nurse must be on duty at all times;

(b) The number of infants that may be taken care of by one registered nurse or licensed practical nurse. This ratio may not require fewer than eight infants to one registered nurse or licensed practical nurse. In developing staffing ratios, the registered nurse on duty under (a) of this subsection may count towards the staffing requirement of this subsection (4)(b); and

(c) The number of infants that may be taken care of by one center-trained caregiver. This ratio may not require fewer than four infants to one center-trained caregiver;

(5) Require centers to prepare weekly plans specific to each infant in their care and in accordance with pediatrician or pediatric advanced registered nurse practitioner standing orders. The pediatrician or pediatric advanced registered nurse practitioner may modify an infant's weekly plan without reexamining the infant if he or she determines the modification is in the best interest of the child. This modification may be communicated to the registered nurse on duty at the center who must then implement the modification. Weekly plans are to include short-term goals for each infant and outcomes must be included in the center's reports made under section 11 of this act;

(6) Ensure that neonatal abstinence syndrome scoring is conducted by a registered nurse, pediatrician, or pediatric advanced registered nurse practitioner;

(7) Establish drug exposed infant developmental screening tests for centers to administer according to a schedule established by the secretary;

(8) Require the center to collaborate with the department of social and health services to develop an individualized safety plan for each child and to meet other contractual requirements of the department of social and health services to identify strategies to meet supervision needs, medical concerns, and family support needs;

(9) Establish the maximum amount of days an infant may be placed at a center;

(10) Develop timelines for initial parent-infant visits upon placement of the infant in the center;

(11) Determine how transportation for the infant will be provided, if needed;

(12) Establish on-site training requirements for caregivers, parents, foster parents, and relatives;

(13) Establish background check requirements for caregivers, employees, and any other person with unsupervised access to the infants under the care of the center; and

(14) Establish other requirements necessary to support the infant and the infant's family.

NEW SECTION. **Sec.**  After referral by the department of social and health services of an infant to a pediatric transitional care center, the department of social and health services:

(1) Retains primary responsibility for case management and must provide consultation to the center regarding all placements and permanency planning issues, including developing a parent-child visitation plan;

(2) Must work with the department and the center to identify and implement evidence-based practices that address current and best medical practices and parent participation; and

(3) Work with the center to ensure medicaid-eligible services are so billed.

NEW SECTION. **Sec.**  An application for a license as a pediatric transitional care center must be made to the department on forms developed by the department.

NEW SECTION. **Sec.**  (1)(a) Upon receipt of an application for a license, the department must issue a pediatric transitional care center license if the applicant and the center's facilities meet the requirements established under this chapter.

(b) The license fee and renewal fee must be established by the secretary in amounts appropriate for community-based nonprofit service.

(c) Center licenses are valid for one year after issuance.

(2) All applications and fees for renewal of the license must be submitted to the department no later than thirty days before expiration of the license. The license is valid only for the operation of the center at the location specified in the license application. Licenses are not transferable or assignable. Licenses must be posted in a conspicuous place on the licensed premises.

NEW SECTION. **Sec.**  (1) The secretary may deny, suspend, or revoke the license of a pediatric transitional care center in any case in which the secretary finds the applicant or center knowingly made a false statement of material fact in the application for the license or any supporting data in any record required by this chapter or matter under investigation by the department.

(2) The secretary must investigate complaints concerning operation of a center without a license. The secretary may issue a notice of intention to issue a cease and desist order to any person who the secretary has reason to believe is engaged in the unlicensed operation of a center. If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The person receiving a temporary cease and desist order must be provided an opportunity for a prompt hearing. The temporary cease and desist order remains in effect until further order of the secretary. Any person operating a center under this chapter without a license is guilty of a misdemeanor, and each day of operation of an unlicensed center constitutes a separate offense.

(3) The secretary may deny, suspend, revoke, or modify a license or a provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

NEW SECTION. **Sec.**  The secretary may adopt rules, in consultation with the department of social and health services, necessary to implement this chapter. The rules may provide for:

(1) Exceptions, alterations, or additions to the requirements established in section 4 of this act; and

(2) Evidence-based practices identified by the department and the department of social and health services as provided in section 5(2) of this act.

NEW SECTION. **Sec.**  The department must make or cause to be made at least one inspection of each center before license approval and at least one inspection before license renewal. The inspection may be made without providing advance notice of it. Every inspection may include an inspection of every part of the premises and an examination of all records. Following an inspection, written notice of any violation of this chapter or rules adopted under this chapter must be given to the applicant or licensee and the department. The notice must describe the reasons for the center's noncompliance.

NEW SECTION. **Sec.**  Centers must submit data related to the quality of patient care for review by the department in a manner and on a schedule established by the department. The department must consider the reporting standards of other public and private organizations that measure quality in order to maintain consistency in reporting and minimize the burden on the center. The department must review the data to determine the maintenance of quality patient care at the center. If the department determines that the care offered at the center may present a risk to the health and safety of the patients, the department may conduct an inspection of the center and initiate appropriate actions to protect the public. Information submitted to the department under this section is exempt from disclosure under chapter 42.56 RCW.

NEW SECTION. **Sec.**  Pediatric transitional care centers must have a facility safety and emergency training program. The program must include a procedural plan for handling medical emergencies that is available for review during surveys and inspections.

**Sec.**  RCW 42.56.360 and 2016 c 238 s 2 are each amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the pharmacy quality assurance commission as provided in RCW 69.45.090;

(b) Information obtained by the pharmacy quality assurance commission or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, a notification of an incident under RCW 70.56.040(5), and reports regarding adverse events under RCW 70.56.020(2)(b), regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);

(g) Information obtained by the department of health under chapter 70.225 RCW;

(h) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150;

(i) Cardiac and stroke system performance data submitted to national, state, or local data collection systems under RCW 70.168.150(2)(b);

(j) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual; ((~~and~~))

(k) Data and information exempt from disclosure under RCW 43.371.040; and

(l) Information collected by the department of health under section 11 of this act.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

(3)(a) Documents related to infant mortality reviews conducted pursuant to RCW 70.05.170 are exempt from disclosure as provided for in RCW 70.05.170(3).

(b)(i) If an agency provides copies of public records to another agency that are exempt from public disclosure under this subsection (3), those records remain exempt to the same extent the records were exempt in the possession of the originating entity.

(ii) For notice purposes only, agencies providing exempt records under this subsection (3) to other agencies may mark any exempt records as "exempt" so that the receiving agency is aware of the exemption, however whether or not a record is marked exempt does not affect whether the record is actually exempt from disclosure.

(4) Information and documents related to maternal mortality reviews conducted pursuant to RCW 70.54.450 are confidential and exempt from public inspection and copying.

**Sec.**  RCW 42.56.360 and 2014 c 223 s 17 are each amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the pharmacy quality assurance commission as provided in RCW 69.45.090;

(b) Information obtained by the pharmacy quality assurance commission or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, a notification of an incident under RCW 70.56.040(5), and reports regarding adverse events under RCW 70.56.020(2)(b), regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);

(g) Information obtained by the department of health under chapter 70.225 RCW;

(h) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150;

(i) Cardiac and stroke system performance data submitted to national, state, or local data collection systems under RCW 70.168.150(2)(b);

(j) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual; ((~~and~~))

(k) Data and information exempt from disclosure under RCW 43.371.040; and

(l) Information collected by the department of health under section 11 of this act.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

(3)(a) Documents related to infant mortality reviews conducted pursuant to RCW 70.05.170 are exempt from disclosure as provided for in RCW 70.05.170(3).

(b)(i) If an agency provides copies of public records to another agency that are exempt from public disclosure under this subsection (3), those records remain exempt to the same extent the records were exempt in the possession of the originating entity.

(ii) For notice purposes only, agencies providing exempt records under this subsection (3) to other agencies may mark any exempt records as "exempt" so that the receiving agency is aware of the exemption, however whether or not a record is marked exempt does not affect whether the record is actually exempt from disclosure.

NEW SECTION. **Sec.**  Sections 1 through 12 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec.**  Section 13 of this act expires June 30, 2020.

NEW SECTION. **Sec.**  Section 14 of this act takes effect June 30, 2020.

**--- END ---**