

**SENATE BILL 5294**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senators Rasmussen, Vognild, Metcalf, McCaslin, Stratton, Bailey, Craswell and Thorsness.

Read first time January 28, 1991. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to disclosures by health care professionals; adding  
2 a new chapter to Title 70 RCW; prescribing penalties; and declaring an  
3 emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that  
6 just as workers and citizens have a right to know of the presence of  
7 toxic and potentially dangerous materials in their workplace and  
8 community, patients of health care professionals have a right to know  
9 whether or not they are being treated by a person who is suffering  
10 from, or infected with, a life-threatening disease or illness that is  
11 potentially capable of being transmitted to the patient.

12 The legislature further finds and declares that the right of health  
13 care professionals to privacy, although important, is far outweighed by  
14 the right of the consumer-patient to full and complete information  
15 concerning any possible risks of treatment.

1       The legislature therefore determines that to balance these  
2 competing interests while maintaining the maximum privacy for the  
3 parties involved, it is in the public interest to establish a  
4 comprehensive procedure for the disclosure of information regarding  
5 communicable diseases to patients and to provide a procedure for the  
6 enforcement of the disclosure requirement.

7       NEW SECTION.   **Sec. 2.**       This act shall be known as the "Patient  
8 Right to Know Act" of 1991.

9       NEW SECTION.   **Sec. 3.**       (1) This chapter applies only to health  
10 care professionals licensed under the chapters specified in this  
11 section. This chapter does not apply to any business or profession not  
12 licensed under the chapters specified in this section.

13       (2) This chapter applies to the following health care  
14 professionals:

- 15       (a) Acupuncturists certified under chapter 18.06 RCW;
- 16       (b) Dental hygienists licensed under chapter 18.29 RCW;
- 17       (c) Dentists licensed under chapter 18.32 RCW;
- 18       (d) Midwives licensed under chapter 18.50 RCW;
- 19       (e) Nursing assistants registered or certified under chapter 18.52B  
20 RCW;
- 21       (f) Osteopaths licensed under chapter 18.57 RCW;
- 22       (g) Osteopathic physicians' assistants certified under chapter  
23 18.57A RCW;
- 24       (h) Physicians licensed under chapter 18.71 RCW;
- 25       (i) Physicians' assistants licensed under chapter 18.71A RCW;
- 26       (j) Practical nurses licensed under chapter 18.78 RCW;
- 27       (k) Registered nurses licensed under chapter 18.88 RCW.

1        NEW SECTION.    **Sec. 4.**        Notwithstanding any other provision of  
2 law, any health care professional listed in section 3 of this act who  
3 is sick or infected with a dangerous or infectious disease, or with any  
4 disease required by the state board of health to be reported, shall, in  
5 every case, before treating or caring for a patient in any manner  
6 involving physical contact, notify the patient or the patient's  
7 guardian, in writing, of the nature of the disease which the health  
8 care professional is suffering from or infected with.

9        NEW SECTION.    **Sec. 5.**        The failure of a health care  
10 professional to give the notice required by section 4 of this act shall  
11 be deemed to be unprofessional conduct under any applicable licensing  
12 and disciplinary provisions related to such health care professional.

13        NEW SECTION.    **Sec. 6.**        The failure of a health care  
14 professional to give the notice required by section 4 of this act, and  
15 the patient's subsequent contraction of the disease of which the health  
16 care professional is suffering from or infected by, shall be prima  
17 facie evidence of a criminal violation of RCW 70.54.050.

18        NEW SECTION.    **Sec. 7.**        The failure of a health care  
19 professional to give the notice required by section 4 of this act is a  
20 matter affecting the public interest for the purpose of applying  
21 chapter 19.86 RCW. The failure of a health care professional to give  
22 the notice required by section 4 of this act is not reasonable in  
23 relation to the development and preservation of business. A violation  
24 of this chapter constitutes an unfair or deceptive act or practice in  
25 trade or commerce for the purpose of applying chapter 19.86 RCW.

1        NEW SECTION.    **Sec. 8.**        In any civil action for damages arising  
2 from a failure of a health care professional to give the notice  
3 required by section 4 of this act, upon proof by the plaintiff that the  
4 required notice was not given and that the patient contracted the  
5 disease which the health care professional was suffering from or was  
6 infected with, the burden of proof shall then shift to the defendant to  
7 prove that the patient did not contract or become infected with the  
8 disease from the health care professional.

9        NEW SECTION.    **Sec. 9.**        If any provision of this act or its  
10 application to any person or circumstance is held invalid, the  
11 remainder of the act or the application of the provision to other  
12 persons or circumstances is not affected.

13        NEW SECTION.    **Sec. 10.**       This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of the  
15 state government and its existing public institutions, and shall take  
16 effect immediately.

17        NEW SECTION.    **Sec. 11.**       Sections 1 through 8 of this act shall  
18 constitute a new chapter in Title 70 RCW.