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SENATE BILL 5540

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State of Washington

56th Legislature

1999 Regular Session

By Senators Deccio, Wojahn and Thibaudeau; by request of Department of Health

Read first time 01/27/1999. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the disclosure of information obtained by the  
2 department of health related to meeting licensing standards in  
3 hospitals; and amending RCW 70.41.150 and 70.41.200.

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

5 **Sec. 1.** RCW 70.41.150 and 1985 c 213 s 24 are each amended to read  
6 as follows:

7 (1) Information received by the department through filed reports,  
8 inspection, or as otherwise authorized under this chapter, ((shall  
9 not)) may be disclosed publicly ((in such manner as to identify  
10 individuals or hospitals, except in a proceeding involving the question  
11 of licensure. Such records of the department shall at all times be  
12 available to the council and the members thereof)), as set forth under  
13 chapter 42.17 RCW, except:

14 (a) Licensing inspections, or complaint investigations, may be  
15 disclosed no sooner than three business days after the hospital has  
16 received the resulting assessment report; and

17 (b) Information regarding administrative action against the license  
18 may be disclosed after the hospital has received the documents  
19 initiating the administrative action.

1        (2) The department may adopt rules necessary to implement this  
2 section.

3        **Sec. 2.** RCW 70.41.200 and 1994 sp.s. c 9 s 742 are each amended to  
4 read as follows:

5        (1) Every hospital shall maintain a coordinated quality improvement  
6 program for the improvement of the quality of health care services  
7 rendered to patients and the identification and prevention of medical  
8 malpractice. The program shall include at least the following:

9        (a) The establishment of a quality improvement committee with the  
10 responsibility to review the services rendered in the hospital, both  
11 retrospectively and prospectively, in order to improve the quality of  
12 medical care of patients and to prevent medical malpractice. The  
13 committee shall oversee and coordinate the quality improvement and  
14 medical malpractice prevention program and shall (~~insure~~) ensure that  
15 information gathered pursuant to the program is used to review and to  
16 revise hospital policies and procedures;

17        (b) A medical staff privileges sanction procedure through which  
18 credentials, physical and mental capacity, and competence in delivering  
19 health care services are periodically reviewed as part of an evaluation  
20 of staff privileges;

21        (c) The periodic review of the credentials, physical and mental  
22 capacity, and competence in delivering health care services of all  
23 persons who are employed or associated with the hospital;

24        (d) A procedure for the prompt resolution of grievances by patients  
25 or their representatives related to accidents, injuries, treatment, and  
26 other events that may result in claims of medical malpractice;

27        (e) The maintenance and continuous collection of information  
28 concerning the hospital's experience with negative health care outcomes  
29 and incidents injurious to patients, patient grievances, professional  
30 liability premiums, settlements, awards, costs incurred by the hospital  
31 for patient injury prevention, and safety improvement activities;

32        (f) The maintenance of relevant and appropriate information  
33 gathered pursuant to (a) through (e) of this subsection concerning  
34 individual physicians within the physician's personnel or credential  
35 file maintained by the hospital;

36        (g) Education programs dealing with quality improvement, patient  
37 safety, injury prevention, staff responsibility to report professional  
38 misconduct, the legal aspects of patient care, improved communication

1 with patients, and causes of malpractice claims for staff personnel  
2 engaged in patient care activities; and

3 (h) Policies to ensure compliance with the reporting requirements  
4 of this section.

5 (2) Any person who, in substantial good faith, provides information  
6 to further the purposes of the quality improvement and medical  
7 malpractice prevention program or who, in substantial good faith,  
8 participates on the quality improvement committee shall not be subject  
9 to an action for civil damages or other relief as a result of such  
10 activity.

11 (3) Information and documents, including complaints and incident  
12 reports, created specifically for, and collected, and maintained by a  
13 quality improvement committee are not subject to discovery or  
14 introduction into evidence in any civil action, and no person who was  
15 in attendance at a meeting of such committee or who participated in the  
16 creation, collection, or maintenance of information or documents  
17 specifically for the committee shall be permitted or required to  
18 testify in any civil action as to the content of such proceedings or  
19 the documents and information prepared specifically for the committee.  
20 This subsection does not preclude: (a) In any civil action, the  
21 discovery of the identity of persons involved in the medical care that  
22 is the basis of the civil action whose involvement was independent of  
23 any quality improvement activity; (b) in any civil action, the  
24 testimony of any person concerning the facts which form the basis for  
25 the institution of such proceedings of which the person had personal  
26 knowledge acquired independently of such proceedings; (c) in any civil  
27 action by a health care provider regarding the restriction or  
28 revocation of that individual's clinical or staff privileges,  
29 introduction into evidence information collected and maintained by  
30 quality improvement committees regarding such health care provider; (d)  
31 in any civil action, disclosure of the fact that staff privileges were  
32 terminated or restricted, including the specific restrictions imposed,  
33 if any and the reasons for the restrictions; or (e) in any civil  
34 action, discovery and introduction into evidence of the patient's  
35 medical records required by regulation of the department of health to  
36 be made regarding the care and treatment received.

37 (4) Each quality improvement committee shall, on at least a  
38 semiannual basis, report to the governing board of the hospital in  
39 which the committee is located. The report shall review the quality

1 improvement activities conducted by the committee, and any actions  
2 taken as a result of those activities.

3 (5) The department of health shall adopt such rules as are deemed  
4 appropriate to effectuate the purposes of this section.

5 (6) The medical quality assurance commission or the board of  
6 osteopathic medicine and surgery, as appropriate, may review and audit  
7 the records of committee decisions in which a physician's privileges  
8 are terminated or restricted. Each hospital shall produce and make  
9 accessible to the commission or board the appropriate records and  
10 otherwise facilitate the review and audit. Information so gained shall  
11 not be subject to the discovery process and confidentiality shall be  
12 respected as required by subsection (3) of this section. Failure of a  
13 hospital to comply with this subsection is punishable by a civil  
14 penalty not to exceed two hundred fifty dollars.

15 (7) The department, the joint commission on accreditation of health  
16 care organizations, and any other accrediting organization may review  
17 and audit the records of a quality improvement committee or peer review  
18 committee in connection with their inspection and review of hospitals.  
19 Information so obtained shall not be subject to the discovery process,  
20 and confidentiality shall be respected as required by subsection (3) of  
21 this section. Each hospital shall produce and make accessible to the  
22 department the appropriate records and otherwise facilitate the review  
23 and audit.

24 (8) Violation of this section shall not be considered negligence  
25 per se.

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