
HOUSE BILL 1642

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By Representatives Morrell, Pflug, Cody, Benson, Schual-Berke, Alexander, Clibborn, Edwards, Moeller and Kenney

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1 AN ACT Relating to peer review committees and coordinated quality
2 improvement programs; and amending RCW 4.24.250, 43.70.510, and
3 70.41.200.

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

5 **Sec. 1.** RCW 4.24.250 and 1981 c 181 s 1 are each amended to read
6 as follows:

7 (1) Any health care provider as defined in RCW 7.70.020 (1) and (2)
8 as now existing or hereafter amended who, in good faith, files charges
9 or presents evidence against another member of their profession based
10 on the claimed incompetency or gross misconduct of such person before
11 a regularly constituted review committee or board of a professional
12 society or hospital whose duty it is to evaluate the competency and
13 qualifications of members of the profession, including limiting the
14 extent of practice of such person in a hospital or similar institution,
15 or before a regularly constituted committee or board of a hospital
16 whose duty it is to review and evaluate the quality of patient care,
17 shall be immune from civil action for damages arising out of such
18 activities. The proceedings, reports, and written records of such
19 committees or boards, or of a member, employee, staff person, or

1 investigator of such a committee or board, shall not be subject to
2 subpoena or discovery proceedings in any civil action, except actions
3 arising out of the recommendations of such committees or boards
4 involving the restriction or revocation of the clinical or staff
5 privileges of a health care provider as defined above.

6 (2) A coordinated quality improvement program maintained in
7 accordance with RCW 43.70.510 or 70.41.200 may share information and
8 documents, including complaints and incident reports, created
9 specifically for, and collected and maintained by a coordinated quality
10 improvement committee or committees or boards under subsection (1) of
11 this section, with one or more other coordinated quality improvement
12 programs for the improvement of the quality of health care services
13 rendered to patients and the identification and prevention of medical
14 malpractice. Information and documents disclosed by one coordinated
15 quality improvement program to another coordinated quality improvement
16 program and any information and documents created or maintained as a
17 result of the sharing of information and documents shall not be subject
18 to the discovery process and confidentiality shall be respected as
19 required by subsection (1) of this section and by RCW 43.70.510(4) and
20 70.41.200(3).

21 **Sec. 2.** RCW 43.70.510 and 1995 c 267 s 7 are each amended to read
22 as follows:

23 (1)(a) Health care institutions and medical facilities, other than
24 hospitals, that are licensed by the department, professional societies
25 or organizations, health care service contractors, health maintenance
26 organizations, health carriers approved pursuant to chapter 48.43 RCW,
27 and any other person or entity providing health care coverage under
28 chapter 48.42 RCW that is subject to the jurisdiction and regulation of
29 any state agency or any subdivision thereof may maintain a coordinated
30 quality improvement program for the improvement of the quality of
31 health care services rendered to patients and the identification and
32 prevention of medical malpractice as set forth in RCW 70.41.200.

33 (b) All such programs shall comply with the requirements of RCW
34 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to
35 reflect the structural organization of the institution, facility,
36 professional societies or organizations, health care service
37 contractors, health maintenance organizations, health carriers, or any

1 other person or entity providing health care coverage under chapter
2 48.42 RCW that is subject to the jurisdiction and regulation of any
3 state agency or any subdivision thereof, unless an alternative quality
4 improvement program substantially equivalent to RCW 70.41.200(1)(a) is
5 developed. All such programs, whether complying with the requirement
6 set forth in RCW 70.41.200(1)(a) or in the form of an alternative
7 program, must be approved by the department before the discovery
8 limitations provided in subsections (3) and (4) of this section and the
9 exemption under RCW 42.17.310(1)(hh) and subsection (5) of this section
10 shall apply. In reviewing plans submitted by licensed entities that
11 are associated with physicians' offices, the department shall ensure
12 that the exemption under RCW 42.17.310(1)(hh) and the discovery
13 limitations of this section are applied only to information and
14 documents related specifically to quality improvement activities
15 undertaken by the licensed entity.

16 (2) Health care provider groups of (~~ten~~) two or more providers
17 may maintain a coordinated quality improvement program for the
18 improvement of the quality of health care services rendered to patients
19 and the identification and prevention of medical malpractice as set
20 forth in RCW 70.41.200. All such programs shall comply with the
21 requirements of RCW 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h)
22 as modified to reflect the structural organization of the health care
23 provider group. All such programs must be approved by the department
24 before the discovery limitations provided in subsections (3) and (4) of
25 this section and the exemption under RCW 42.17.310(1)(hh) and
26 subsection (5) of this section shall apply.

27 (3) Any person who, in substantial good faith, provides information
28 to further the purposes of the quality improvement and medical
29 malpractice prevention program or who, in substantial good faith,
30 participates on the quality improvement committee shall not be subject
31 to an action for civil damages or other relief as a result of such
32 activity.

33 (4) Information and documents, including complaints and incident
34 reports, created specifically for, and collected, and maintained by a
35 quality improvement committee are not subject to discovery or
36 introduction into evidence in any civil action, and no person who was
37 in attendance at a meeting of such committee or who participated in the
38 creation, collection, or maintenance of information or documents

1 specifically for the committee shall be permitted or required to
2 testify in any civil action as to the content of such proceedings or
3 the documents and information prepared specifically for the committee.
4 This subsection does not preclude: (a) In any civil action, the
5 discovery of the identity of persons involved in the medical care that
6 is the basis of the civil action whose involvement was independent of
7 any quality improvement activity; (b) in any civil action, the
8 testimony of any person concerning the facts that form the basis for
9 the institution of such proceedings of which the person had personal
10 knowledge acquired independently of such proceedings; (c) in any civil
11 action by a health care provider regarding the restriction or
12 revocation of that individual's clinical or staff privileges,
13 introduction into evidence information collected and maintained by
14 quality improvement committees regarding such health care provider; (d)
15 in any civil action challenging the termination of a contract by a
16 state agency with any entity maintaining a coordinated quality
17 improvement program under this section if the termination was on the
18 basis of quality of care concerns, introduction into evidence of
19 information created, collected, or maintained by the quality
20 improvement committees of the subject entity, which may be under terms
21 of a protective order as specified by the court; (e) in any civil
22 action, disclosure of the fact that staff privileges were terminated or
23 restricted, including the specific restrictions imposed, if any and the
24 reasons for the restrictions; or (f) in any civil action, discovery and
25 introduction into evidence of the patient's medical records required by
26 rule of the department of health to be made regarding the care and
27 treatment received.

28 (5) Information and documents created specifically for, and
29 collected and maintained by a quality improvement committee are exempt
30 from disclosure under chapter 42.17 RCW.

31 (6) A coordinated quality improvement program may share information
32 and documents, including complaints and incident reports, created
33 specifically for, and collected and maintained by a quality improvement
34 committee or a peer review committee under RCW 4.24.250 with one or
35 more other coordinated quality improvement programs maintained in
36 accordance with this section or with RCW 70.41.200, for the improvement
37 of the quality of health care services rendered to patients and the
38 identification and prevention of medical malpractice. Information and

1 documents disclosed by one coordinated quality improvement program to
2 another coordinated quality improvement program and any information and
3 documents created or maintained as a result of the sharing of
4 information and documents shall not be subject to the discovery process
5 and confidentiality shall be respected as required by subsection (4) of
6 this section and RCW 4.24.250.

7 (7) The department of health shall adopt rules as are necessary to
8 implement this section.

9 **Sec. 3.** RCW 70.41.200 and 2000 c 6 s 3 are each amended to read as
10 follows:

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

15 (a) The establishment of a quality improvement committee with the
16 responsibility to review the services rendered in the hospital, both
17 retrospectively and prospectively, in order to improve the quality of
18 medical care of patients and to prevent medical malpractice. The
19 committee shall oversee and coordinate the quality improvement and
20 medical malpractice prevention program and shall ensure that
21 information gathered pursuant to the program is used to review and to
22 revise hospital policies and procedures;

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

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

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

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

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

5 (g) Education programs dealing with quality improvement, patient
6 safety, injury prevention, staff responsibility to report professional
7 misconduct, the legal aspects of patient care, improved communication
8 with patients, and causes of malpractice claims for staff personnel
9 engaged in patient care activities; and

10 (h) Policies to ensure compliance with the reporting requirements
11 of this section.

12 (2) Any person who, in substantial good faith, provides information
13 to further the purposes of the quality improvement and medical
14 malpractice prevention program or who, in substantial good faith,
15 participates on the quality improvement committee shall not be subject
16 to an action for civil damages or other relief as a result of such
17 activity.

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

1 terminated or restricted, including the specific restrictions imposed,
2 if any and the reasons for the restrictions; or (e) in any civil
3 action, discovery and introduction into evidence of the patient's
4 medical records required by regulation of the department of health to
5 be made regarding the care and treatment received.

6 (4) Each quality improvement committee shall, on at least a
7 semiannual basis, report to the governing board of the hospital in
8 which the committee is located. The report shall review the quality
9 improvement activities conducted by the committee, and any actions
10 taken as a result of those activities.

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

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

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

32 (8) A coordinated quality improvement program may share information
33 and documents, including complaints and incident reports, created
34 specifically for, and collected and maintained by a quality improvement
35 committee or a peer review committee under RCW 4.24.250 with one or
36 more other coordinated quality improvement programs maintained in
37 accordance with this section or with RCW 43.70.510, for the improvement
38 of the quality of health care services rendered to patients and the

1 identification and prevention of medical malpractice. Information and
2 documents disclosed by one coordinated quality improvement program to
3 another coordinated quality improvement program and any information and
4 documents created or maintained as a result of the sharing of
5 information and documents shall not be subject to the discovery process
6 and confidentiality shall be respected as required by subsection (3) of
7 this section and RCW 4.24.250.

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

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