
HOUSE BILL 2915

State of Washington 59th Legislature 2006 Regular Session

By Representatives Schual-Berke, Priest and Rodne

Read first time 01/16/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to actions against emergency health care providers;
2 and amending RCW 7.70.020 and 7.70.030.

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

4 **Sec. 1.** RCW 7.70.020 and 1995 c 323 s 3 are each amended to read
5 as follows:

6 As used in this chapter, the following terms have the meanings
7 indicated unless the context requires otherwise:

8 (1) "Emergency facility health care" means any health care,
9 including, but not limited to, screenings, examinations, evaluations,
10 treatments, surgeries, and services pursuant to obligations imposed by
11 the federal emergency medical treatment and active labor act (42 U.S.C.
12 Sec. 1395dd), provided by a physician, or, to the extent permitted by
13 law, other health professional, hospital, institution, organization, or
14 person licensed by this state to provide health care or related
15 services, to a person while admitted to an emergency health care
16 facility.

17 (2) "Emergency health care facility" means: (a) A hospital
18 emergency department or other department of the hospital, surgical or

1 otherwise, where an admitted hospital emergency department patient is
2 taken for further treatment, or (b) other locally recognized emergency
3 care facility.

4 (3) "Health care provider" means either:

5 ((+1)) (a) A person licensed by this state to provide health care
6 or related services, including, but not limited to, a licensed
7 acupuncturist, a physician, osteopathic physician, dentist, nurse,
8 optometrist, podiatric physician and surgeon, chiropractor, physical
9 therapist, psychologist, pharmacist, optician, physician(+s)
10 assistant, midwife, osteopathic physician's assistant, nurse
11 practitioner, or physician's trained mobile intensive care paramedic,
12 including, in the event such person is deceased, his or her estate or
13 personal representative;

14 ((+2)) (b) An employee or agent of a person described in ((part
15 +1) above) subsection (1)(a) of this section, acting in the course and
16 scope of his employment, including, in the event such employee or agent
17 is deceased, his or her estate or personal representative; or

18 ((+3)) (c) An entity, whether or not incorporated, facility, or
19 institution employing one or more persons described in ((part+1)
20 above) subsection (1)(a) of this section, including, but not limited
21 to, a hospital, clinic, health maintenance organization, or nursing
22 home; or an officer, director, employee, or agent thereof acting in the
23 course and scope of his or her employment, including in the event such
24 officer, director, employee, or agent is deceased, his or her estate or
25 personal representative.

26 **Sec. 2.** RCW 7.70.030 and 1975-'76 2nd ex.s. c 56 s 8 are each
27 amended to read as follows:

28 (1) No award shall be made in any action or arbitration for damages
29 for injury occurring as the result of health care which is provided
30 after June 25, 1976, unless the plaintiff establishes one or more of
31 the following propositions:

32 ((+1)) (a) That injury resulted from the failure of a health care
33 provider to follow the accepted standard of care;

34 ((+2)) (b) That a health care provider promised the patient or his
35 representative that the injury suffered would not occur;

36 ((+3)) (c) That injury resulted from health care to which the
37 patient or his representative did not consent.

1 (~~Unless~~) Except as provided in subsection (2) of this section or
2 as otherwise provided in this chapter, the plaintiff shall have the
3 burden of proving each fact essential to an award by a preponderance of
4 the evidence.

5 (2) In any action or arbitration for damages for injury incurring
6 as the result of emergency facility health care provided after July 1,
7 2006, the plaintiff shall have the burden of proving each fact
8 essential to an award by clear, cogent, and convincing evidence.

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