
ENGROSSED SUBSTITUTE HOUSE BILL 2318

State of Washington

62nd Legislature

2012 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Hinkle, Bailey, and Jinkins)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to shared decision making; and amending RCW
2 7.70.060.

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

4 **Sec. 1.** RCW 7.70.060 and 2007 c 259 s 3 are each amended to read
5 as follows:

6 (1) If a patient while legally competent, or his or her
7 representative if he or she is not competent, signs a consent form
8 which sets forth the following, the signed consent form shall
9 constitute prima facie evidence that the patient gave his or her
10 informed consent to the treatment administered and the patient has the
11 burden of rebutting this by a preponderance of the evidence:

12 (a) A description, in language the patient could reasonably be
13 expected to understand, of:

14 (i) The nature and character of the proposed treatment;

15 (ii) The anticipated results of the proposed treatment;

16 (iii) The recognized possible alternative forms of treatment; and

17 (iv) The recognized serious possible risks, complications, and
18 anticipated benefits involved in the treatment and in the recognized
19 possible alternative forms of treatment, including nontreatment;

1 (b) Or as an alternative, a statement that the patient elects not
2 to be informed of the elements set forth in (a) of this subsection.

3 (2) If a patient while legally competent, or his or her
4 representative if he or she is not competent, signs an acknowledgment
5 of shared decision making as described in this section, such
6 acknowledgment shall constitute prima facie evidence that the patient
7 gave his or her informed consent to the treatment administered and the
8 patient has the burden of rebutting this by clear and convincing
9 evidence. An acknowledgment of shared decision making shall include:

10 (a) A statement that the patient, or his or her representative, and
11 the health care provider have engaged in shared decision making as an
12 alternative means of meeting the informed consent requirements set
13 forth by laws, accreditation standards, and other mandates;

14 (b) A brief description of the services that the patient and
15 provider jointly have agreed will be furnished;

16 (c) A brief description of the patient decision aid or aids that
17 have been used by the patient and provider to address the needs for (i)
18 high-quality, up-to-date information about the condition, including
19 risk and benefits of available options and, if appropriate, a
20 discussion of the limits of scientific knowledge about outcomes; (ii)
21 values clarification to help patients sort out their values and
22 preferences; and (iii) guidance or coaching in deliberation, designed
23 to improve the patient's involvement in the decision process;

24 (d) A statement that the patient or his or her representative
25 understands: The risk or seriousness of the disease or condition to be
26 prevented or treated; the available treatment alternatives, including
27 nontreatment; and the risks, benefits, and uncertainties of the
28 treatment alternatives, including nontreatment; and

29 (e) A statement certifying that the patient or his or her
30 representative has had the opportunity to ask the provider questions,
31 and to have any questions answered to the patient's satisfaction, and
32 indicating the patient's intent to receive the identified services.

33 (3) As used in this section, "shared decision making" means a
34 process in which the physician or other health care practitioner
35 discusses with the patient or his or her representative the information
36 specified in subsection (2) of this section with the use of a patient
37 decision aid and the patient shares with the provider such relevant

1 personal information as might make one treatment or side effect more or
2 less tolerable than others.

3 (4)(a) As used in this section, "patient decision aid" means a
4 written, audio-visual, or online tool that provides a balanced
5 presentation of the condition and treatment options, benefits, and
6 harms, including, if appropriate, a discussion of the limits of
7 scientific knowledge about outcomes, for any medical condition or
8 procedure, including abortion as defined in RCW 9.02.170 and:

9 (i)(A) That is certified by one or more national certifying
10 organizations recognized by the medical director of the health care
11 authority; or

12 (B) That has been evaluated based on the international patient
13 decision aid standards by an organization located in the United States
14 or Canada and has a current overall score satisfactory to the medical
15 director of the health care authority; or

16 (ii) That, if a current evaluation is not available from an
17 organization located in the United States or Canada, the medical
18 director of the health care authority has independently assessed and
19 certified based on the international patient decision aid standards.

20 (b) The health care authority may charge a fee to the certification
21 applicant to defray the costs of the assessment and certification under
22 this subsection.

23 (5) Failure to use a form or to engage in shared decision making,
24 with or without the use of a patient decision aid, shall not be
25 admissible as evidence of failure to obtain informed consent. There
26 shall be no liability, civil or otherwise, resulting from a health care
27 provider choosing either the signed consent form set forth in
28 subsection (1)(a) of this section or the signed acknowledgment of
29 shared decision making as set forth in subsection (2) of this section.

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