

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 2318**

Chapter 101, Laws of 2012

62nd Legislature  
2012 Regular Session

SHARED DECISION MAKING

EFFECTIVE DATE: 06/07/12

Passed by the House February 14, 2012  
Yeas 98 Nays 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate March 2, 2012  
Yeas 46 Nays 2

BRAD OWEN

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**President of the Senate**

Approved March 29, 2012, 1:27 p.m.

CHRISTINE GREGOIRE

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2318** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

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**Chief Clerk**

FILED

March 29, 2012

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE HOUSE BILL 2318

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Passed Legislature - 2012 Regular Session

State of Washington                      62nd Legislature                      2012 Regular Session

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

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.

Passed by the House February 14, 2012.

Passed by the Senate March 2, 2012.

Approved by the Governor March 29, 2012.

Filed in Office of Secretary of State March 29, 2012.