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ENGROSSED SENATE BILL 5666

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Dammeier and Schlicher

Read first time 02/07/13. Referred to Committee on Health Care .

1 AN ACT Relating to clarifying the law regarding disclosing health  
2 care quality improvement, quality assurance, peer review, and  
3 credentialing information; amending RCW 7.71.030, 70.41.230,  
4 70.230.080, and 70.230.140; and reenacting and amending RCW 70.41.200.

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

6 **Sec. 1.** RCW 7.71.030 and 2012 c 165 s 1 are each amended to read  
7 as follows:

8 (1) If the limitation on damages under RCW 7.71.020 and P.L. 99-660  
9 Sec. 411(1) does not apply, this section shall provide the exclusive  
10 ((remedy)) remedies in any lawsuit by a health care provider for any  
11 action taken by a professional peer review body of health care  
12 providers as defined in RCW 7.70.020(~~(, that is found to be based on~~  
13 ~~matters not related to the competence or professional conduct of a~~  
14 ~~health care provider))~~).

15 (2) ((Actions)) Remedies shall be limited to appropriate injunctive  
16 relief, and damages shall be allowed only for lost earnings directly  
17 attributable to the action taken by the professional peer review body,  
18 incurred between the date of such action and the date the action is  
19 functionally reversed by the professional peer review body.

1 (3) Reasonable attorneys' fees and costs shall be awarded if  
2 approved by the court under RCW 7.71.035.

3 (4) The statute of limitations for actions under this section shall  
4 be one year from the date of the action of the professional peer review  
5 body.

6 **Sec. 2.** RCW 70.41.200 and 2007 c 273 s 22 and 2007 c 261 s 3 are  
7 each reenacted and amended to read as follows:

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

12 (a) The establishment of ((a)) one or more quality improvement  
13 committees with the responsibility to review the services rendered in  
14 the hospital, both retrospectively and prospectively, in order to  
15 improve the quality of medical care of patients and to prevent medical  
16 malpractice. ((The)) Different quality improvement committees may be  
17 established as a part of a quality improvement program to review  
18 different health care services. Such committees shall oversee and  
19 coordinate the quality improvement and medical malpractice prevention  
20 program and shall ensure that information gathered pursuant to the  
21 program is used to review and to revise hospital policies and  
22 procedures;

23 (b) A process, including a medical staff privileges sanction  
24 procedure which must be conducted substantially in accordance with  
25 medical staff bylaws and applicable rules, regulations, or policies of  
26 the medical staff through which credentials, physical and mental  
27 capacity, professional conduct including disruptive behavior, and  
28 competence in delivering health care services initially and are  
29 periodically thereafter reviewed as part of an evaluation of staff  
30 privileges. For the purposes of this subsection, disruptive behavior  
31 is limited to quality improvement review of professional activities and  
32 not employment matters that are normally retained in an employee file;

33 (c) ((The)) A process for the initial and periodic review of the  
34 credentials, physical and mental capacity, professional conduct  
35 including disruptive behavior, and competence in delivering health care  
36 services of all ((persons)) other health care providers who are  
37 employed or associated with the hospital;

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

4 (e) The maintenance and continuous collection of information  
5 concerning the hospital's experience with negative health care outcomes  
6 and incidents injurious to patients including health care-associated  
7 infections as defined in RCW 43.70.056, patient grievances,  
8 professional liability premiums, settlements, awards, costs incurred by  
9 the hospital for patient injury prevention, and safety improvement  
10 activities;

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

15 (g) Education programs dealing with quality improvement, patient  
16 safety, medication errors, injury prevention, infection control, staff  
17 responsibility to report professional misconduct, the legal aspects of  
18 patient care, improved communication with patients, and causes of  
19 malpractice claims for staff personnel engaged in patient care  
20 activities; and

21 (h) Policies to ensure compliance with the reporting requirements  
22 of this section.

23 (2) Any person who, in substantial good faith, provides information  
24 to further the purposes of the quality improvement and medical  
25 malpractice prevention program or who, in substantial good faith,  
26 participates on the quality improvement committee shall not be subject  
27 to an action for civil damages or other relief as a result of such  
28 activity. Any person or entity participating in a coordinated quality  
29 improvement program that, in substantial good faith, shares information  
30 or documents with one or more other programs, committees, or boards  
31 under subsection (8) of this section is not subject to an action for  
32 civil damages or other relief as a result of the activity. For the  
33 purposes of this section, sharing information is presumed to be in  
34 substantial good faith. However, the presumption may be rebutted upon  
35 a showing of clear, cogent, and convincing evidence that the  
36 information shared was knowingly false or deliberately misleading.

37 (3) Information and documents, including complaints and incident  
38 reports, created specifically for, and collected and maintained by, a

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

26 (4) Each quality improvement committee shall, on at least a  
27 semiannual basis, report to the governing board of the hospital in  
28 which the committee is located. The report shall review the quality  
29 improvement activities conducted by the committee, and any actions  
30 taken as a result of those activities.

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

33 (6) The medical quality assurance commission or the board of  
34 osteopathic medicine and surgery, as appropriate, may review and audit  
35 the records of committee decisions in which a physician's privileges  
36 are terminated or restricted. Each hospital shall produce and make  
37 accessible to the commission or board the appropriate records and  
38 otherwise facilitate the review and audit. Information so gained shall

1 not be subject to the discovery process and confidentiality shall be  
2 respected as required by subsection (3) of this section. Failure of a  
3 hospital to comply with this subsection is punishable by a civil  
4 penalty not to exceed two hundred fifty dollars.

5 (7) The department, the joint commission on accreditation of health  
6 care organizations, and any other accrediting organization may review  
7 and audit the records of a quality improvement committee or peer review  
8 committee in connection with their inspection and review of hospitals.  
9 Information so obtained shall not be subject to the discovery process,  
10 and confidentiality shall be respected as required by subsection (3) of  
11 this section. Each hospital shall produce and make accessible to the  
12 department the appropriate records and otherwise facilitate the review  
13 and audit.

14 (8) A coordinated quality improvement program may share information  
15 and documents, including complaints and incident reports, created  
16 specifically for, and collected and maintained by, a quality  
17 improvement committee or a peer review committee under RCW 4.24.250  
18 with one or more other coordinated quality improvement programs  
19 maintained in accordance with this section or RCW 43.70.510, a  
20 coordinated quality improvement committee maintained by an ambulatory  
21 surgical facility under RCW 70.230.070, a quality assurance committee  
22 maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer  
23 review committee under RCW 4.24.250, for the improvement of the quality  
24 of health care services rendered to patients and the identification and  
25 prevention of medical malpractice. The privacy protections of chapter  
26 70.02 RCW and the federal health insurance portability and  
27 accountability act of 1996 and its implementing regulations apply to  
28 the sharing of individually identifiable patient information held by a  
29 coordinated quality improvement program. Any rules necessary to  
30 implement this section shall meet the requirements of applicable  
31 federal and state privacy laws. Information and documents disclosed by  
32 one coordinated quality improvement program to another coordinated  
33 quality improvement program or a peer review committee under RCW  
34 4.24.250 and any information and documents created or maintained as a  
35 result of the sharing of information and documents shall not be subject  
36 to the discovery process and confidentiality shall be respected as  
37 required by subsection (3) of this section, RCW 18.20.390 (6) and (8),  
38 74.42.640 (7) and (9), and 4.24.250.

1 (9) A hospital that operates a nursing home as defined in RCW  
2 18.51.010 may conduct quality improvement activities for both the  
3 hospital and the nursing home through a quality improvement committee  
4 under this section, and such activities shall be subject to the  
5 provisions of subsections (2) through (8) of this section.

6 (10) Violation of this section shall not be considered negligence  
7 per se.

8 **Sec. 3.** RCW 70.41.230 and 1994 sp.s. c 9 s 744 are each amended to  
9 read as follows:

10 (1) Prior to granting or renewing clinical privileges or  
11 association of any physician or hiring a physician, a hospital or  
12 facility approved pursuant to this chapter shall request from the  
13 physician and the physician shall provide the following information:

14 (a) The name of any hospital or facility with or at which the  
15 physician had or has any association, employment, privileges, or  
16 practice during the prior five years: PROVIDED, That the hospital may  
17 request additional information going back further than five years, and  
18 the physician shall use his or her best efforts to comply with such a  
19 request for additional information;

20 (b) (~~If such association, employment, privilege, or practice was~~  
21 ~~discontinued, — the — reasons — for — its — discontinuation~~) Whether the  
22 physician has ever been or is in the process of being denied, revoked,  
23 terminated, suspended, restricted, reduced, limited, sanctioned, placed  
24 on probation, monitored, or not renewed for any professional activity  
25 as reported in the Washington practitioner application or successor  
26 application or form, or has ever voluntarily or involuntarily  
27 relinquished, withdrawn, or failed to proceed with an application for  
28 any professional activity as reported in the Washington practitioner  
29 application or successor application or form in order to avoid an  
30 adverse action or to preclude an investigation or while under  
31 investigation relating to professional competence or conduct;

32 (c) Any pending professional medical misconduct proceedings or any  
33 pending medical malpractice actions in this state or another state, the  
34 substance of the allegations in the proceedings or actions, and any  
35 additional information concerning the proceedings or actions as the  
36 physician deems appropriate;

1 (d) The substance of the findings in the actions or proceedings and  
2 any additional information concerning the actions or proceedings as the  
3 physician deems appropriate;

4 (e) A waiver by the physician of any confidentiality provisions  
5 concerning the information required to be provided to hospitals  
6 pursuant to this subsection; and

7 (f) A verification by the physician that the information provided  
8 by the physician is accurate and complete.

9 (2) Prior to granting privileges or association to any physician or  
10 hiring a physician, a hospital or facility approved pursuant to this  
11 chapter shall request from any hospital with or at which the physician  
12 had or has privileges, was associated, or was employed, during the  
13 preceding five years, the following information concerning the  
14 physician:

15 (a) Any pending professional medical misconduct proceedings or any  
16 pending medical malpractice actions, in this state or another state;

17 (b) Any judgment or settlement of a medical malpractice action and  
18 any finding of professional misconduct in this state or another state  
19 by a licensing or disciplinary board; and

20 (c) Any information required to be reported by hospitals pursuant  
21 to RCW 18.71.0195.

22 (3) The medical quality assurance commission shall be advised  
23 within thirty days of the name of any physician denied staff  
24 privileges, association, or employment on the basis of adverse findings  
25 under subsection (1) of this section.

26 (4) A hospital or facility that receives a request for information  
27 from another hospital or facility pursuant to subsections (1) and (2)  
28 of this section shall provide such information concerning the physician  
29 in question to the extent such information is known to the hospital or  
30 facility receiving such a request, including the reasons for  
31 suspension, termination, or curtailment of employment or privileges at  
32 the hospital or facility. A hospital, facility, or other person  
33 providing such information in good faith is not liable in any civil  
34 action for the release of such information.

35 (5) Information and documents, including complaints and incident  
36 reports, created specifically for, and collected, and maintained by a  
37 quality improvement committee are not subject to discovery or  
38 introduction into evidence in any civil action, and no person who was

1 in attendance at a meeting of such committee or who participated in the  
2 creation, collection, or maintenance of information or documents  
3 specifically for the committee shall be permitted or required to  
4 testify in any civil action as to the content of such proceedings or  
5 the documents and information prepared specifically for the committee.  
6 This subsection does not preclude: (a) In any civil action, the  
7 discovery of the identity of persons involved in the medical care that  
8 is the basis of the civil action whose involvement was independent of  
9 any quality improvement activity; (b) in any civil action, the  
10 testimony of any person concerning the facts which form the basis for  
11 the institution of such proceedings of which the person had personal  
12 knowledge acquired independently of such proceedings; (c) in any civil  
13 action by a health care provider regarding the restriction or  
14 revocation of that individual's clinical or staff privileges,  
15 introduction into evidence information collected and maintained by  
16 quality improvement committees regarding such health care provider; (d)  
17 in any civil action, disclosure of the fact that staff privileges were  
18 terminated or restricted, including the specific restrictions imposed,  
19 if any and the reasons for the restrictions; or (e) in any civil  
20 action, discovery and introduction into evidence of the patient's  
21 medical records required by regulation of the department of health to  
22 be made regarding the care and treatment received.

23 (6) Hospitals shall be granted access to information held by the  
24 medical quality assurance commission and the board of osteopathic  
25 medicine and surgery pertinent to decisions of the hospital regarding  
26 credentialing and recredentialing of practitioners.

27 (7) Violation of this section shall not be considered negligence  
28 per se.

29 **Sec. 4.** RCW 70.230.080 and 2007 c 273 s 9 are each amended to read  
30 as follows:

31 (1) Every ambulatory surgical facility shall maintain a coordinated  
32 quality improvement program for the improvement of the quality of  
33 health care services rendered to patients and the identification and  
34 prevention of medical malpractice. The program shall include at least  
35 the following:

36 (a) The establishment of ((a)) one or more quality improvement  
37 committees with the responsibility to review the services rendered in



1 the ambulatory surgical facility, both retrospectively and  
2 prospectively, in order to improve the quality of medical care of  
3 patients and to prevent medical malpractice. ((The)) Different quality  
4 improvement committees may be established as a part of the quality  
5 improvement program to review different health care services. Such  
6 committees shall oversee and coordinate the quality improvement and  
7 medical malpractice prevention program and shall ensure that  
8 information gathered pursuant to the program is used to review and to  
9 revise the policies and procedures of the ambulatory surgical facility;

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

14 (c) The periodic review of the credentials, physical and mental  
15 capacity, and competence in delivering health care services of all  
16 persons who are employed or associated with the ambulatory surgical  
17 facility;

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

21 (e) The maintenance and continuous collection of information  
22 concerning the ambulatory surgical facility's experience with negative  
23 health care outcomes and incidents injurious to patients, patient  
24 grievances, professional liability premiums, settlements, awards, costs  
25 incurred by the ambulatory surgical facility for patient injury  
26 prevention, and safety improvement activities;

27 (f) The maintenance of relevant and appropriate information  
28 gathered pursuant to (a) through (e) of this subsection concerning  
29 individual practitioners within the practitioner's personnel or  
30 credential file maintained by the ambulatory surgical facility;

31 (g) Education programs dealing with quality improvement, patient  
32 safety, medication errors, injury prevention, staff responsibility to  
33 report professional misconduct, the legal aspects of patient care,  
34 improved communication with patients, and causes of malpractice claims  
35 for staff personnel engaged in patient care activities; and

36 (h) Policies to ensure compliance with the reporting requirements  
37 of this section.

1           (2) Any person who, in substantial good faith, provides information  
2 to further the purposes of the quality improvement and medical  
3 malpractice prevention program or who, in substantial good faith,  
4 participates on the quality improvement committee is not subject to an  
5 action for civil damages or other relief as a result of such activity.  
6 Any person or entity participating in a coordinated quality improvement  
7 program that, in substantial good faith, shares information or  
8 documents with one or more other programs, committees, or boards under  
9 subsection (8) of this section is not subject to an action for civil  
10 damages or other relief as a result of the activity. For the purposes  
11 of this section, sharing information is presumed to be in substantial  
12 good faith. However, the presumption may be rebutted upon a showing of  
13 clear, cogent, and convincing evidence that the information shared was  
14 knowingly false or deliberately misleading.

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

1 and introduction into evidence of the patient's medical records  
2 required by rule of the department to be made regarding the care and  
3 treatment received.

4 (4) Each quality improvement committee shall, on at least a  
5 semiannual basis, report to the management of the ambulatory surgical  
6 facility, as identified in the facility's application, in which the  
7 committee is located. The report shall review the quality improvement  
8 activities conducted by the committee, and any actions taken as a  
9 result of those activities.

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

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

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

31 (8) 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  
34 improvement committee or a peer review committee under RCW 4.24.250  
35 with one or more other coordinated quality improvement programs  
36 maintained in accordance with this section or RCW 43.70.510 or  
37 70.41.200, a quality assurance committee maintained in accordance with  
38 RCW 18.20.390 or 74.42.640, or a peer review committee under RCW

1 4.24.250, for the improvement of the quality of health care services  
2 rendered to patients and the identification and prevention of medical  
3 malpractice. The privacy protections of chapter 70.02 RCW and the  
4 federal health insurance portability and accountability act of 1996 and  
5 its implementing regulations apply to the sharing of individually  
6 identifiable patient information held by a coordinated quality  
7 improvement program. Any rules necessary to implement this section  
8 shall meet the requirements of applicable federal and state privacy  
9 laws. Information and documents disclosed by one coordinated quality  
10 improvement program to another coordinated quality improvement program  
11 or a peer review committee under RCW 4.24.250 and any information and  
12 documents created or maintained as a result of the sharing of  
13 information and documents are not subject to the discovery process and  
14 confidentiality shall be respected as required by subsection (3) of  
15 this section, RCW 18.20.390 (6) and (8), 70.41.200(3), 74.42.640 (7)  
16 and (9), and 4.24.250.

17 (9) An ambulatory surgical facility that participates in a  
18 coordinated quality improvement program under RCW 43.70.510 shall be  
19 deemed to have met the requirements of this section.

20 (10) Violation of this section shall not be considered negligence  
21 per se.

22 **Sec. 5.** RCW 70.230.140 and 2007 c 273 s 15 are each amended to  
23 read as follows:

24 (1) Prior to granting or renewing clinical privileges or  
25 association of any practitioner or hiring a practitioner, an ambulatory  
26 surgical facility approved pursuant to this chapter shall request from  
27 the practitioner and the practitioner shall provide the following  
28 information:

29 (a) The name of any hospital, ambulatory surgical facility, or  
30 other facility with or at which the practitioner had or has any  
31 association, employment, privileges, or practice during the prior five  
32 years: PROVIDED, That the ambulatory surgical facility may request  
33 additional information going back further than five years, and the  
34 physician shall use his or her best efforts to comply with such a  
35 request for additional information;

36 (b) (~~If such association, employment, privilege, or practice was~~  
37 ~~discontinued, — the — reasons — for — its — discontinuation~~) Whether the

1 physician has ever been or is in the process of being denied, revoked,  
2 terminated, suspended, restricted, reduced, limited, sanctioned, placed  
3 on probation, monitored, or not renewed for any professional activity  
4 as reported in the Washington practitioner application or successor  
5 application or form, or has ever voluntarily or involuntarily  
6 relinquished, withdrawn, or failed to proceed with an application for  
7 any professional activity as reported in the Washington practitioner  
8 application or successor application or form in order to avoid an  
9 adverse action or to preclude an investigation or while under  
10 investigation relating to professional competence or conduct;

11 (c) Any pending professional medical misconduct proceedings or any  
12 pending medical malpractice actions in this state or another state, the  
13 substance of the allegations in the proceedings or actions, and any  
14 additional information concerning the proceedings or actions as the  
15 practitioner deems appropriate;

16 (d) The substance of the findings in the actions or proceedings and  
17 any additional information concerning the actions or proceedings as the  
18 practitioner deems appropriate;

19 (e) A waiver by the practitioner of any confidentiality provisions  
20 concerning the information required to be provided to ambulatory  
21 surgical facilities pursuant to this subsection; and

22 (f) A verification by the practitioner that the information  
23 provided by the practitioner is accurate and complete.

24 (2) Prior to granting privileges or association to any practitioner  
25 or hiring a practitioner, an ambulatory surgical facility approved  
26 under this chapter shall request from any hospital or ambulatory  
27 surgical facility with or at which the practitioner had or has  
28 privileges, was associated, or was employed, during the preceding five  
29 years, the following information concerning the practitioner:

30 (a) Any pending professional medical misconduct proceedings or any  
31 pending medical malpractice actions, in this state or another state;

32 (b) Any judgment or settlement of a medical malpractice action and  
33 any finding of professional misconduct in this state or another state  
34 by a licensing or disciplinary board; and

35 (c) Any information required to be reported by hospitals or  
36 ambulatory surgical facilities pursuant to RCW 18.130.070.

37 (3) The medical quality assurance commission, board of osteopathic  
38 medicine and surgery, podiatric medical board, or dental quality

1 assurance commission, as appropriate, shall be advised within thirty  
2 days of the name of any practitioner denied staff privileges,  
3 association, or employment on the basis of adverse findings under  
4 subsection (1) of this section.

5 (4) A hospital, ambulatory surgical facility, or other facility  
6 that receives a request for information from another hospital,  
7 ambulatory surgical facility, or other facility pursuant to subsections  
8 (1) and (2) of this section shall provide such information concerning  
9 the physician in question to the extent such information is known to  
10 the hospital, ambulatory surgical facility, or other facility receiving  
11 such a request, including the reasons for suspension, termination, or  
12 curtailment of employment or privileges at the hospital, ambulatory  
13 surgical facility, or facility. A hospital, ambulatory surgical  
14 facility, other facility, or other person providing such information in  
15 good faith is not liable in any civil action for the release of such  
16 information.

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

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

5 (6) Ambulatory surgical facilities shall be granted access to  
6 information held by the medical quality assurance commission, board of  
7 osteopathic medicine and surgery, or podiatric medical board pertinent  
8 to decisions of the ambulatory surgical facility regarding  
9 credentialing and recredentialing of practitioners.

10 (7) Violation of this section shall not be considered negligence  
11 per se.

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