

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5666

63rd Legislature
2013 Regular Session

Passed by the Senate April 26, 2013
YEAS 47 NAYS 0

President of the Senate

Passed by the House April 25, 2013
YEAS 98 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5666** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5666

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2013 Regular Session

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 health care quality improvement measures,
2 including professional peer review; amending RCW 7.71.030, 70.41.230,
3 70.230.080, and 70.230.140; and reenacting and amending RCW 70.41.200.

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

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

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

14 (2) ~~((Actions))~~ Remedies shall be limited to appropriate injunctive
15 relief, and damages shall be allowed only for lost earnings directly
16 attributable to the action taken by the professional peer review body,
17 incurred between the date of such action and the date the action is
18 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, and competence in delivering health
28 care services are periodically reviewed as part of an evaluation of
29 staff privileges;

30 (c) ((The)) A process for the periodic review of the credentials,
31 physical and mental capacity, professional conduct, and competence in
32 delivering health care services of all ((persons)) other health care
33 providers who are employed or associated with the hospital;

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

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

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

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

18 (h) Policies to ensure compliance with the reporting requirements
19 of this section.

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

34 (3) Information and documents, including complaints and incident
35 reports, created specifically for, and collected and maintained by, a
36 quality improvement committee are not subject to review or disclosure,
37 except as provided in this section, or discovery or introduction into
38 evidence in any civil action, and no person who was in attendance at a

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

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

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

30 (6) The medical quality assurance commission or the board of
31 osteopathic medicine and surgery, as appropriate, may review and audit
32 the records of committee decisions in which a physician's privileges
33 are terminated or restricted. Each hospital shall produce and make
34 accessible to the commission or board the appropriate records and
35 otherwise facilitate the review and audit. Information so gained shall
36 not be subject to the discovery process and confidentiality shall be
37 respected as required by subsection (3) of this section. Failure of a

1 hospital to comply with this subsection is punishable by a civil
2 penalty not to exceed two hundred fifty dollars.

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

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

37 (9) A hospital that operates a nursing home as defined in RCW
38 18.51.010 may conduct quality improvement activities for both the

1 hospital and the nursing home through a quality improvement committee
2 under this section, and such activities shall be subject to the
3 provisions of subsections (2) through (8) of this section.

4 (10) Violation of this section shall not be considered negligence
5 per se.

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

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

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

18 (b) (~~If such association, employment, privilege, or practice was~~
19 ~~discontinued, the reasons for its discontinuation~~) Whether the
20 physician has ever been or is in the process of being denied, revoked,
21 terminated, suspended, restricted, reduced, limited, sanctioned, placed
22 on probation, monitored, or not renewed for any professional activity
23 listed in (b)(i) through (x) of this subsection, or has ever
24 voluntarily or involuntarily relinquished, withdrawn, or failed to
25 proceed with an application for any professional activity listed in
26 (b)(i) through (x) of this subsection in order to avoid an adverse
27 action or to preclude an investigation or while under investigation
28 relating to professional competence or conduct:

29 (i) License to practice any profession in any jurisdiction;

30 (ii) Other professional registration or certification in any
31 jurisdiction;

32 (iii) Specialty or subspecialty board certification;

33 (iv) Membership on any hospital medical staff;

34 (v) Clinical privileges at any facility, including hospitals,
35 ambulatory surgical centers, or skilled nursing facilities;

36 (vi) Medicare, medicaid, the food and drug administration, the

1 national institute of health (office of human research protection),
2 governmental, national, or international regulatory agency, or any
3 public program;

4 (vii) Professional society membership or fellowship;

5 (viii) Participation or membership in a health maintenance
6 organization, preferred provider organization, independent practice
7 association, physician-hospital organization, or other entity;

8 (ix) Academic appointment;

9 (x) Authority to prescribe controlled substances (drug enforcement
10 agency or other authority);

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 physician 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 physician deems appropriate;

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

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

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

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 pursuant
36 to RCW 18.71.0195.

37 (3) The medical quality assurance commission shall be advised

1 within thirty days of the name of any physician denied staff
2 privileges, association, or employment on the basis of adverse findings
3 under subsection (1) of this section.

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

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

1 (6) Hospitals shall be granted access to information held by the
2 medical quality assurance commission and the board of osteopathic
3 medicine and surgery pertinent to decisions of the hospital regarding
4 credentialing and recredentialing of practitioners.

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

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

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

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

25 (b) A process, including a medical staff privileges sanction
26 procedure which must be conducted substantially in accordance with
27 medical staff bylaws and applicable rules, regulations, or policies of
28 the medical staff through which credentials, physical and mental
29 capacity, professional conduct, and competence in delivering health
30 care services are periodically reviewed as part of an evaluation of
31 staff privileges;

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

36 (d) A procedure for the prompt resolution of grievances by patients

1 or their representatives related to accidents, injuries, treatment, and
2 other events that may result in claims of medical malpractice;

3 (e) The maintenance and continuous collection of information
4 concerning the ambulatory surgical facility's experience with negative
5 health care outcomes and incidents injurious to patients, patient
6 grievances, professional liability premiums, settlements, awards, costs
7 incurred by the ambulatory surgical facility for patient injury
8 prevention, and safety improvement activities;

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

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

18 (h) Policies to ensure compliance with the reporting requirements
19 of this section.

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

34 (3) Information and documents, including complaints and incident
35 reports, created specifically for, and collected and maintained by, a
36 quality improvement committee are not subject to review or disclosure,
37 except as provided in this section, or discovery or introduction into
38 evidence in any civil action, and no person who was in attendance at a

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

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

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

31 (6) The medical quality assurance commission, the board of
32 osteopathic medicine and surgery, or the podiatric medical board, as
33 appropriate, may review and audit the records of committee decisions in
34 which a practitioner's privileges are terminated or restricted. Each
35 ambulatory surgical facility shall produce and make accessible to the
36 commission or board the appropriate records and otherwise facilitate
37 the review and audit. Information so gained is not subject to the
38 discovery process and confidentiality shall be respected as required by

1 subsection (3) of this section. Failure of an ambulatory surgical
2 facility to comply with this subsection is punishable by a civil
3 penalty not to exceed two hundred fifty dollars.

4 (7) The department and any accrediting organization may review and
5 audit the records of a quality improvement committee or peer review
6 committee in connection with their inspection and review of the
7 ambulatory surgical facility. Information so obtained is not subject
8 to the discovery process, and confidentiality shall be respected as
9 required by subsection (3) of this section. Each ambulatory surgical
10 facility shall produce and make accessible to the department the
11 appropriate records and otherwise facilitate the review and audit.

12 (8) A coordinated quality improvement program may share information
13 and documents, including complaints and incident reports, created
14 specifically for, and collected and maintained by, a quality
15 improvement committee or a peer review committee under RCW 4.24.250
16 with one or more other coordinated quality improvement programs
17 maintained in accordance with this section or RCW 43.70.510 or
18 70.41.200, a quality assurance committee maintained in accordance with
19 RCW 18.20.390 or 74.42.640, or a peer review committee under RCW
20 4.24.250, for the improvement of the quality of health care services
21 rendered to patients and the identification and prevention of medical
22 malpractice. The privacy protections of chapter 70.02 RCW and the
23 federal health insurance portability and accountability act of 1996 and
24 its implementing regulations apply to the sharing of individually
25 identifiable patient information held by a coordinated quality
26 improvement program. Any rules necessary to implement this section
27 shall meet the requirements of applicable federal and state privacy
28 laws. Information and documents disclosed by one coordinated quality
29 improvement program to another coordinated quality improvement program
30 or a peer review committee under RCW 4.24.250 and any information and
31 documents created or maintained as a result of the sharing of
32 information and documents are not subject to the discovery process and
33 confidentiality shall be respected as required by subsection (3) of
34 this section, RCW 18.20.390 (6) and (8), 70.41.200(3), 74.42.640 (7)
35 and (9), and 4.24.250.

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

1 (10) Violation of this section shall not be considered negligence
2 per se.

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

5 (1) Prior to granting or renewing clinical privileges or
6 association of any practitioner or hiring a practitioner, an ambulatory
7 surgical facility approved pursuant to this chapter shall request from
8 the practitioner and the practitioner shall provide the following
9 information:

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

17 (b) (~~If such association, employment, privilege, or practice was~~
18 ~~discontinued, the reasons for its discontinuation~~) Whether the
19 physician has ever been or is in the process of being denied, revoked,
20 terminated, suspended, restricted, reduced, limited, sanctioned, placed
21 on probation, monitored, or not renewed for any professional activity
22 listed in (b)(i) through (x) of this subsection, or has ever
23 voluntarily or involuntarily relinquished, withdrawn, or failed to
24 proceed with an application for any professional activity listed in
25 (b)(i) through (x) of this subsection in order to avoid an adverse
26 action or to preclude an investigation or while under investigation
27 relating to professional competence or conduct:

28 (i) License to practice any profession in any jurisdiction;

29 (ii) Other professional registration or certification in any
30 jurisdiction;

31 (iii) Specialty or subspecialty board certification;

32 (iv) Membership on any hospital medical staff;

33 (v) Clinical privileges at any facility, including hospitals,
34 ambulatory surgical centers, or skilled nursing facilities;

35 (vi) Medicare, medicaid, the food and drug administration, the
36 national institute of health (office of human research protection),

1 governmental, national, or international regulatory agency, or any
2 public program;

3 (vii) Professional society membership or fellowship;

4 (viii) Participation or membership in a health maintenance
5 organization, preferred provider organization, independent practice
6 association, physician-hospital organization, or other entity;

7 (ix) Academic appointment;

8 (x) Authority to prescribe controlled substances (drug enforcement
9 agency or other authority);

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

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

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

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

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

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

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

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

36 (3) The medical quality assurance commission, board of osteopathic
37 medicine and surgery, podiatric medical board, or dental quality
38 assurance commission, as appropriate, shall be advised within thirty

1 days of the name of any practitioner denied staff privileges,
2 association, or employment on the basis of adverse findings under
3 subsection (1) of this section.

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

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

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

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

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

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