

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5601

Chapter 297, Laws of 2013

63rd Legislature
2013 Regular Session

ELECTRONIC HEALTH RECORD TECHNOLOGY--REBATING PRACTICES

EFFECTIVE DATE: 07/28/13

Passed by the Senate April 24, 2013
YEAS 45 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 16, 2013
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 20, 2013, 2:40 p.m.

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5601** as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

May 20, 2013

JAY INSLEE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5601

AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By Senate Health Care (originally sponsored by Senators Becker, Cleveland, Dammeier, and Schlicher)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to ensuring chapter 19.68 RCW is interpreted in a
2 manner consistent with the federal antikickback statute; adding new
3 sections to chapter 19.68 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature recognizes the
6 complexity of the health care delivery system and the need to provide
7 a clear and consistent regulatory framework to enable health care
8 providers to manage their operations in an efficient and effective
9 manner. The legislature also recognizes that the donation of
10 electronic health records systems reduces health care costs, promotes
11 patient safety, and improves the quality of health care.

12 (2) To further the important national policy of promoting the
13 widespread adoption of electronic health records systems, the federal
14 antikickback statute and the rules adopted to implement the statute
15 contain a safe harbor that allows the donation of electronic health
16 records systems. The federal statute and rules also contain additional
17 safe harbors to preserve a variety of other activities which, in many
18 cases, improve access to health care. For health care entities other

1 than clinical laboratories, the legality of all of these arrangements
2 is currently in question.

3 (3) The legislature is adding language to chapter 19.68 RCW to
4 clarifying existing law and ensure that, except with respect to
5 arrangements involving an entity which principally operates as a
6 clinical laboratory, it is interpreted in a manner consistent with the
7 federal antikickback statute.

8 NEW SECTION. **Sec. 2.** (1) Nothing in this chapter may be construed
9 to limit or prohibit the donation of electronic health record
10 technology or other activity by any entity, including a hospital
11 licensed under chapter 70.41 RCW that operates a clinical laboratory,
12 when the donation or other activity is allowed by or otherwise does not
13 violate, 42 U.S.C. Sec. 1320a-7b(b) or the federal rules adopted to
14 implement 42 U.S.C. Sec. 1320a-7b(b).

15 (2) This section does not apply to any entity which principally
16 operates as a clinical laboratory licensed or certified under section
17 353 of the public health service act, 42 U.S.C. Sec. 263a, or other
18 applicable Washington state law.

19 NEW SECTION. **Sec. 3.** The definitions in this section apply
20 throughout this chapter unless the context clearly requires otherwise.

21 "Electronic health record technology" means items and services, in
22 the form of software or information technology and training services,
23 necessary and used predominantly to create, maintain, transmit, or
24 receive electronic health records.

25 NEW SECTION. **Sec. 4.** This act applies retroactively to June 1,
26 2006, as well as prospectively.

27 NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act are each added
28 to chapter 19.68 RCW.

Passed by the Senate April 24, 2013.

Passed by the House April 16, 2013.

Approved by the Governor May 20, 2013.

Filed in Office of Secretary of State May 20, 2013.