H-2277.2

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**HOUSE BILL 2192**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Taylor, Scott, Young, and Shea

AN ACT Relating to repealing the prescription monitoring program; amending RCW 42.56.360; reenacting and amending RCW 74.09.215; and repealing RCW 70.225.010, 70.225.020, 70.225.025, 70.225.030, 70.225.040, 70.225.050, and 70.225.060.

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

**Sec.**  RCW 42.56.360 and 2014 c 223 s 17 are each amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the pharmacy quality assurance commission as provided in RCW 69.45.090;

(b) Information obtained by the pharmacy quality assurance commission or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, a notification of an incident under RCW 70.56.040(5), and reports regarding adverse events under RCW 70.56.020(2)(b), regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);

(g) ((~~Information obtained by the department of health under chapter 70.225 RCW;~~

~~(h)~~)) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150;

((~~(i)~~)) (h) Cardiac and stroke system performance data submitted to national, state, or local data collection systems under RCW 70.168.150(2)(b);

((~~(j)~~)) (i) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual; and

((~~(k)~~)) (j) Data and information exempt from disclosure under RCW 43.371.040.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

(3)(a) Documents related to infant mortality reviews conducted pursuant to RCW 70.05.170 are exempt from disclosure as provided for in RCW 70.05.170(3).

(b)(i) If an agency provides copies of public records to another agency that are exempt from public disclosure under this subsection (3), those records remain exempt to the same extent the records were exempt in the possession of the originating entity.

(ii) For notice purposes only, agencies providing exempt records under this subsection (3) to other agencies may mark any exempt records as "exempt" so that the receiving agency is aware of the exemption, however whether or not a record is marked exempt does not affect whether the record is actually exempt from disclosure.

**Sec.**  RCW 74.09.215 and 2013 2nd sp.s. c 4 s 1902, 2013 2nd sp.s. c 4 s 997, and 2013 2nd sp.s. c 4 s 995 are each reenacted and amended to read as follows:

The medicaid fraud penalty account is created in the state treasury. All receipts from civil penalties collected under RCW 74.09.210, all receipts received under judgments or settlements that originated under a filing under the federal false claims act, and all receipts received under judgments or settlements that originated under the state medicaid fraud false claims act, chapter 74.66 RCW, must be deposited into the account. Moneys in the account may be spent only after appropriation and must be used only for medicaid services, fraud detection and prevention activities, and recovery of improper payments, for other medicaid fraud enforcement activities((~~, and the prescription monitoring program established in chapter 70.225 RCW~~)). For the 2013-2015 fiscal biennium, moneys in the account may be spent on inpatient and outpatient rebasing and conversion to the tenth version of the international classification of diseases. For the 2011-2013 fiscal biennium, moneys in the account may be spent on inpatient and outpatient rebasing.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 70.225.010 (Definitions) and 2007 c 259 s 42;

(2)RCW 70.225.020 (Prescription monitoring program—Subject to funding—Duties of dispensers) and 2013 c 36 s 2, 2013 c 19 s 126, 2012 c 192 s 1, & 2007 c 259 s 43;

(3)RCW 70.225.025 (Rules) and 2007 c 259 s 47;

(4)RCW 70.225.030 (Enhancement of program—Feasibility study) and 2007 c 259 s 44;

(5)RCW 70.225.040 (Confidentiality of prescription information—Procedures—Immunity when acting in good faith) and 2011 1st sp.s. c 15 s 87 & 2007 c 259 s 45;

(6)RCW 70.225.050 (Department may contract for operation of program) and 2007 c 259 s 46; and

(7)RCW 70.225.060 (Violations—Penalties—Disclosure exemption for health care providers) and 2007 c 259 s 48.

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