
SUBSTITUTE HOUSE BILL 1239

State of Washington

66th Legislature

2019 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Schmick, Macri, Harris, Appleton, Thai, Wylie, and Chambers)

READ FIRST TIME 02/08/19.

1 AN ACT Relating to protecting the confidentiality of health care
2 quality and peer review discussions to support effective patient
3 safety; amending RCW 42.30.110; and adding a new section to chapter
4 70.41 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.41
7 RCW to read as follows:

8 (1) All meetings, proceedings, and deliberations of the governing
9 body, its staff or agents, concerning the granting, denial,
10 revocation, restriction, or other consideration of the status of the
11 clinical or staff privileges of a physician or other health care
12 provider as defined in RCW 7.70.020, if such other providers at the
13 discretion of the governing body are considered for such privileges,
14 must be confidential and may be conducted in executive session;
15 however, the final action of the governing body as to the denial,
16 revocation, or restriction of clinical or staff privileges of a
17 physician or other health care provider as defined in RCW 7.70.020
18 must be done in public session.

19 (2) All meetings, proceedings, and deliberations of a quality
20 improvement committee established under RCW 4.24.250, 43.70.510, or
21 70.41.200 and all meetings, proceedings, and deliberations of the

1 governing body, its staff or agents, to review the report or the
2 activities of a quality improvement committee established under RCW
3 4.24.250, 43.70.510, or 70.41.200 may, at the discretion of the
4 quality improvement committee or the governing body, be confidential
5 and may be conducted in executive session. Any review conducted by
6 the governing body or quality improvement committee, or their staff
7 or agents, must be subject to the same protections, limitations, and
8 exemptions that apply to quality improvement committee activities
9 under RCW 4.24.240, 4.24.250, 43.70.510, and 70.41.200. However, any
10 final action of the governing body on the report of the quality
11 improvement committee must be done in public session.

12 (3) For the purposes of this section:

13 (a) "Governing body" means the board or committee of a public
14 hospital with authority to make final decisions concerning the
15 granting, denial, revocation, restriction, or other consideration of
16 the clinical or staff privileges of a physician or other health care
17 provider, as defined in RCW 7.70.020; and

18 (b) "Public hospital" means any hospital owned or operated by the
19 state or any of its subdivisions, including the University of
20 Washington.

21 **Sec. 2.** RCW 42.30.110 and 2017 c 137 s 1 are each amended to
22 read as follows:

23 (1) Nothing contained in this chapter may be construed to prevent
24 a governing body from holding an executive session during a regular
25 or special meeting:

26 (a) (i) To consider matters affecting national security;

27 (ii) To consider, if in compliance with any required data
28 security breach disclosure under RCW 19.255.010 and 42.56.590, and
29 with legal counsel available, information regarding the
30 infrastructure and security of computer and telecommunications
31 networks, security and service recovery plans, security risk
32 assessments and security test results to the extent that they
33 identify specific system vulnerabilities, and other information that
34 if made public may increase the risk to the confidentiality,
35 integrity, or availability of agency security or to information
36 technology infrastructure or assets;

37 (b) To consider the selection of a site or the acquisition of
38 real estate by lease or purchase when public knowledge regarding such
39 consideration would cause a likelihood of increased price;

1 (c) To consider the minimum price at which real estate will be
2 offered for sale or lease when public knowledge regarding such
3 consideration would cause a likelihood of decreased price. However,
4 final action selling or leasing public property shall be taken in a
5 meeting open to the public;

6 (d) To review negotiations on the performance of publicly bid
7 contracts when public knowledge regarding such consideration would
8 cause a likelihood of increased costs;

9 (e) To consider, in the case of an export trading company,
10 financial and commercial information supplied by private persons to
11 the export trading company;

12 (f) To receive and evaluate complaints or charges brought against
13 a public officer or employee. However, upon the request of such
14 officer or employee, a public hearing or a meeting open to the public
15 shall be conducted upon such complaint or charge;

16 (g) To evaluate the qualifications of an applicant for public
17 employment or to review the performance of a public employee.
18 However, subject to RCW 42.30.140(4), discussion by a governing body
19 of salaries, wages, and other conditions of employment to be
20 generally applied within the agency shall occur in a meeting open to
21 the public, and when a governing body elects to take final action
22 hiring, setting the salary of an individual employee or class of
23 employees, or discharging or disciplining an employee, that action
24 shall be taken in a meeting open to the public;

25 (h) To evaluate the qualifications of a candidate for appointment
26 to elective office. However, any interview of such candidate and
27 final action appointing a candidate to elective office shall be in a
28 meeting open to the public;

29 (i) To discuss with legal counsel representing the agency matters
30 relating to agency enforcement actions, or to discuss with legal
31 counsel representing the agency litigation or potential litigation to
32 which the agency, the governing body, or a member acting in an
33 official capacity is, or is likely to become, a party, when public
34 knowledge regarding the discussion is likely to result in an adverse
35 legal or financial consequence to the agency.

36 This subsection (1)(i) does not permit a governing body to hold
37 an executive session solely because an attorney representing the
38 agency is present. For purposes of this subsection (1)(i), "potential
39 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
40 concerning:

1 (i) Litigation that has been specifically threatened to which the
2 agency, the governing body, or a member acting in an official
3 capacity is, or is likely to become, a party;

4 (ii) Litigation that the agency reasonably believes may be
5 commenced by or against the agency, the governing body, or a member
6 acting in an official capacity; or

7 (iii) Litigation or legal risks of a proposed action or current
8 practice that the agency has identified when public discussion of the
9 litigation or legal risks is likely to result in an adverse legal or
10 financial consequence to the agency;

11 (j) To consider, in the case of the state library commission or
12 its advisory bodies, western library network prices, products,
13 equipment, and services, when such discussion would be likely to
14 adversely affect the network's ability to conduct business in a
15 competitive economic climate. However, final action on these matters
16 shall be taken in a meeting open to the public;

17 (k) To consider, in the case of the state investment board,
18 financial and commercial information when the information relates to
19 the investment of public trust or retirement funds and when public
20 knowledge regarding the discussion would result in loss to such funds
21 or in private loss to the providers of this information;

22 (l) To consider proprietary or confidential nonpublished
23 information related to the development, acquisition, or
24 implementation of state purchased health care services as provided in
25 RCW 41.05.026;

26 (m) To consider in the case of the life sciences discovery fund
27 authority, the substance of grant applications and grant awards when
28 public knowledge regarding the discussion would reasonably be
29 expected to result in private loss to the providers of this
30 information;

31 (n) To consider in the case of a health sciences and services
32 authority, the substance of grant applications and grant awards when
33 public knowledge regarding the discussion would reasonably be
34 expected to result in private loss to the providers of this
35 information;

36 (o) To consider information regarding staff privileges or quality
37 improvement committees under section 1 of this act.

38 (2) Before convening in executive session, the presiding officer
39 of a governing body shall publicly announce the purpose for excluding
40 the public from the meeting place, and the time when the executive

1 session will be concluded. The executive session may be extended to a
2 stated later time by announcement of the presiding officer.

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