
HOUSE BILL 1148

State of Washington

67th Legislature

2021 Regular Session

By Representatives Cody, Macri, Stonier, Lekanoff, and Pollet

Read first time 01/12/21. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to protecting patient safety in acute care
2 hospitals through improvements in licensing and enforcement; amending
3 RCW 70.41.020 and 70.41.130; and declaring an emergency.

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

5 **Sec. 1.** RCW 70.41.020 and 2016 c 226 s 1 are each amended to
6 read as follows:

7 Unless the context clearly indicates otherwise, the following
8 terms, whenever used in this chapter, shall be deemed to have the
9 following meanings:

10 (1) "Aftercare" means the assistance provided by a lay caregiver
11 to a patient under this chapter after the patient's discharge from a
12 hospital. The assistance may include, but is not limited to,
13 assistance with activities of daily living, wound care, medication
14 assistance, and the operation of medical equipment. "Aftercare"
15 includes assistance only for conditions that were present at the time
16 of the patient's discharge from the hospital. "Aftercare" does not
17 include:

18 (a) Assistance related to conditions for which the patient did
19 not receive medical care, treatment, or observation in the hospital;
20 or

1 (b) Tasks the performance of which requires licensure as a health
2 care provider.

3 (2) "Department" means the Washington state department of health.

4 (3) "Discharge" means a patient's release from a hospital
5 following the patient's admission to the hospital.

6 (4) "Distant site" means the site at which a physician or other
7 licensed provider, delivering a professional service, is physically
8 located at the time the service is provided through telemedicine.

9 (5) "Emergency care to victims of sexual assault" means medical
10 examinations, procedures, and services provided by a hospital
11 emergency room to a victim of sexual assault following an alleged
12 sexual assault.

13 (6) "Emergency contraception" means any health care treatment
14 approved by the food and drug administration that prevents pregnancy,
15 including but not limited to administering two increased doses of
16 certain oral contraceptive pills within seventy-two hours of sexual
17 contact.

18 (7) "Hospital" means any institution, place, building, or agency
19 which provides accommodations, facilities and services over a
20 continuous period of twenty-four hours or more, for observation,
21 diagnosis, or care, of two or more individuals not related to the
22 operator who are suffering from illness, injury, deformity, or
23 abnormality, or from any other condition for which obstetrical,
24 medical, or surgical services would be appropriate for care or
25 diagnosis. "Hospital" as used in this chapter does not include
26 hotels, or similar places furnishing only food and lodging, or simply
27 domiciliary care; nor does it include clinics, or physician's offices
28 where patients are not regularly kept as bed patients for twenty-four
29 hours or more; nor does it include nursing homes, as defined and
30 which come within the scope of chapter 18.51 RCW; nor does it include
31 birthing centers, which come within the scope of chapter 18.46 RCW;
32 nor does it include psychiatric hospitals, which come within the
33 scope of chapter 71.12 RCW; nor any other hospital, or institution
34 specifically intended for use in the diagnosis and care of those
35 suffering from mental illness, intellectual disability, convulsive
36 disorders, or other abnormal mental condition. Furthermore, nothing
37 in this chapter or the rules adopted pursuant thereto shall be
38 construed as authorizing the supervision, regulation, or control of
39 the remedial care or treatment of residents or patients in any
40 hospital conducted for those who rely primarily upon treatment by

1 prayer or spiritual means in accordance with the creed or tenets of
2 any well recognized church or religious denominations.

3 (8) "Immediate jeopardy" means a situation in which the
4 hospital's noncompliance with one or more statutory or regulatory
5 requirements has placed the health and safety of patients in its care
6 at risk for serious injury, serious harm, serious impairment, or
7 death.

8 (9) "Lay caregiver" means any individual designated as such by a
9 patient under this chapter who provides aftercare assistance to a
10 patient in the patient's residence. "Lay caregiver" does not include
11 a long-term care worker as defined in RCW 74.39A.009.

12 ((+9)) (10) "Originating site" means the physical location of a
13 patient receiving health care services through telemedicine.

14 ((+10)) (11) "Person" means any individual, firm, partnership,
15 corporation, company, association, or joint stock association, and
16 the legal successor thereof.

17 ((+11)) (12) "Secretary" means the secretary of health.

18 ((+12)) (13) "Sexual assault" has the same meaning as in RCW
19 70.125.030.

20 ((+13)) (14) "Telemedicine" means the delivery of health care
21 services through the use of interactive audio and video technology,
22 permitting real-time communication between the patient at the
23 originating site and the provider, for the purpose of diagnosis,
24 consultation, or treatment. "Telemedicine" does not include the use
25 of audio-only telephone, facsimile, or email.

26 ((+14)) (15) "Victim of sexual assault" means a person who
27 alleges or is alleged to have been sexually assaulted and who
28 presents as a patient.

29 **Sec. 2.** RCW 70.41.130 and 2011 c 302 s 3 are each amended to
30 read as follows:

31 (1) The department is authorized to ~~((deny, suspend, revoke, or~~
32 ~~modify a)) take any of the actions identified in this section against~~
33 ~~a hospital's~~ license or provisional license in any case in which it
34 finds that there has been a failure or refusal to comply with the
35 requirements of this chapter or the standards or rules adopted under
36 this chapter or the requirements of RCW 71.34.375.

37 (a) When the department determines the hospital has previously
38 been subject to an enforcement action for the same or similar type of
39 violation of the same statute or rule, or has been given any previous

1 statement of deficiency that included the same or similar type of
2 violation of the same or similar statute or rule, or when the
3 hospital failed to correct noncompliance with a statute or rule by a
4 date established or agreed to by the department, the department may
5 impose reasonable conditions on a license. Conditions may include
6 correction within a specified amount of time, training, or hiring a
7 department-approved consultant if the hospital cannot demonstrate to
8 the department that it has access to sufficient internal expertise.
9 If the department determines that the violations constitute immediate
10 jeopardy, the conditions may be imposed immediately in accordance
11 with subsection (3) of this section.

12 (b) (i) In accordance with the authority the department has under
13 RCW 43.70.095, the department may assess a civil fine of up to
14 \$10,000 per violation, not to exceed a total fine of \$1,000,000, on a
15 hospital licensed under this chapter when the department determines
16 the hospital has previously been subject to an enforcement action for
17 the same or similar type of violation of the same statute or rule, or
18 has been given any previous statement of deficiency that included the
19 same or similar type of violation of the same or similar statute or
20 rule, or when the hospital failed to correct noncompliance with a
21 statute or rule by a date established or agreed to by the department.

22 (ii) Proceeds from these fines may only be used by the department
23 to provide training or technical assistance to hospitals and to
24 offset costs associated with licensing hospitals.

25 (iii) The department shall adopt in rules under this chapter
26 specific fine amounts in relation to the severity of the
27 noncompliance and at an adequate level to be a deterrent to future
28 noncompliance.

29 (iv) If a licensee is aggrieved by the department's action of
30 assessing civil fines, the licensee has the right to appeal under RCW
31 43.70.095.

32 (c) The department may suspend a specific category or categories
33 of services or care or recovery units within the hospital as related
34 to the violation by imposing a limited stop service. This may only be
35 done if the department finds that noncompliance results in immediate
36 jeopardy.

37 (i) Prior to imposing a limited stop service, the department
38 shall provide a hospital written notification upon identifying
39 deficient practices or conditions that constitute an immediate
40 jeopardy, and the hospital shall have 24 hours from notification to

1 develop and implement a department-approved plan to correct the
2 deficient practices or conditions that constitute an immediate
3 jeopardy. If the deficient practice or conditions that constitute
4 immediate jeopardy are not verified by the department as having been
5 corrected within the same 24 hour period, the department may issue
6 the limited stop service.

7 (ii) When the department imposes a limited stop service, the
8 hospital may not offer the services or admit any new patients to the
9 care or recovery units in the category or categories subject to the
10 limited stop service until the limited stop service order is
11 terminated.

12 (iii) The department shall conduct a follow-up inspection within
13 five business days or within the time period requested by the
14 hospital if more than five business days is needed to verify the
15 violation necessitating the limited stop service has been corrected.

16 (iv) The limited stop service shall be terminated when:

17 (A) The department verifies the violation necessitating the
18 limited stop service has been corrected or the department determines
19 that the hospital has taken intermediate action to address the
20 immediate jeopardy; and

21 (B) The hospital establishes the ability to maintain correction
22 of the violation previously found deficient.

23 (d) The department may suspend new admissions to the hospital by
24 imposing a stop placement. This may only be done if the department
25 finds that noncompliance results in immediate jeopardy and is not
26 confined to a specific category or categories of patients or a
27 specific area of the hospital.

28 (i) Prior to imposing a stop placement, the department shall
29 provide a hospital written notification upon identifying deficient
30 practices or conditions that constitute an immediate jeopardy, and
31 the hospital shall have 24 hours from notification to develop and
32 implement a department-approved plan to correct the deficient
33 practices or conditions that constitute an immediate jeopardy. If the
34 deficient practice or conditions that constitute immediate jeopardy
35 are not verified by the department as having been corrected within
36 the same 24 hour period, the department may issue the stop placement.

37 (ii) When the department imposes a stop placement, the hospital
38 may not admit any new patients until the stop placement order is
39 terminated.

1 (iii) The department shall conduct a follow-up inspection within
2 five business days or within the time period requested by the
3 hospital if more than five business days is needed to verify the
4 violation necessitating the stop placement has been corrected.

5 (iv) The stop placement order shall be terminated when:

6 (A) The department verifies the violation necessitating the stop
7 placement has been corrected or the department determines that the
8 hospital has taken intermediate action to address the immediate
9 jeopardy; and

10 (B) The hospital establishes the ability to maintain correction
11 of the violation previously found deficient.

12 (e) The department may deny an application for a license or
13 suspend, revoke, or refuse to renew a license.

14 (2) The department may recover from hospital costs related to an
15 enforcement action in subsection (1) of this section. Costs that may
16 be recovered by the department include, but are not limited to, the
17 department's staff expenses, the department's attorney general
18 expenses, the presiding officer's expenses, and costs associated with
19 conducting follow-up inspections.

20 (3) (a) Except as otherwise provided, RCW 43.70.115 governs notice
21 of ((a license denial, revocation, suspension, or modification))
22 actions taken by the department under subsection (1) of this section
23 and provides the right to an adjudicative proceeding. Adjudicative
24 proceedings and hearings under this section are governed by the
25 administrative procedure act, chapter 34.05 RCW. The application for
26 an adjudicative proceeding must be in writing, state the basis for
27 contesting the adverse action, including a copy of the department's
28 notice, be served on and received by the department within 28 days of
29 the licensee's receipt of the adverse notice, and be served in a
30 manner that shows proof of receipt.

31 (b) When the department determines a licensee's noncompliance
32 results in immediate jeopardy, the department may make the imposition
33 of conditions on a licensee, a limited stop placement, stop
34 placement, or the suspension of a license effective immediately upon
35 receipt of the notice by the licensee, pending any adjudicative
36 proceeding.

37 (i) When the department makes the suspension of a license or
38 imposition of conditions on a license effective immediately, a
39 licensee is entitled to a show cause hearing before a presiding
40 officer within 14 days of making the request. The licensee must

1 request the show cause hearing within 28 days of receipt of the
2 notice of immediate suspension or immediate imposition of conditions.
3 At the show cause hearing the department has the burden of
4 demonstrating that more probably than not there is an immediate
5 jeopardy.

6 (ii) At the show cause hearing, the presiding officer may
7 consider the notice and documents supporting the immediate suspension
8 or immediate imposition of conditions and the licensee's response and
9 must provide the parties with an opportunity to provide documentary
10 evidence and written testimony, and to be represented by counsel.
11 Prior to the show cause hearing, the department must provide the
12 licensee with all documentation that supports the department's
13 immediate suspension or imposition of conditions.

14 (iii) If the presiding officer determines there is no immediate
15 jeopardy, the presiding officer may overturn the immediate suspension
16 or immediate imposition of conditions.

17 (iv) If the presiding officer determines there is immediate
18 jeopardy, the immediate suspension or immediate imposition of
19 conditions shall remain in effect pending a full hearing.

20 (v) If the presiding officer sustains the immediate suspension or
21 immediate imposition of conditions, the licensee may request an
22 expedited full hearing on the merits of the department's action. A
23 full hearing must be provided within 90 days of the licensee's
24 request.

25 NEW SECTION. Sec. 3. This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of
27 the state government and its existing public institutions, and takes
28 effect immediately.

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