

SENATE BILL REPORT

SB 5294

AS OF JANUARY 17, 1992

Brief Description: Requiring health care professionals to disclose if they are suffering from or infected with a life-threatening disease or illness.

SPONSORS: Senators Rasmussen, Vognild, Metcalf, McCaslin, Stratton, Bailey, Craswell and Thorsness.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Sarena Seifer (786-7417)

Hearing Dates: February 21, 1991; January 23, 1992

BACKGROUND:

Under current state law, it is unprofessional conduct for a licensed health care provider regulated under the Uniform Disciplinary Act to engage "... in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health." Further, a person affected with any contagious or infectious disease who exposes himself or herself to another person without that person's knowledge is guilty of a misdemeanor.

However, current state law prohibits disclosure of specific information related to tests or test results for HIV infection or for infection with other sexually transmitted diseases, except in limited circumstances. The excepted circumstances do not include disclosure of a health care worker's infection status to patients or prospective patients.

The Worker and Community Right to Know Act may establish legislative intent regarding a patient's right to know the infectious disease status of certain health care providers by providing that "... individuals have an inherent right to know the full range of risks they face so that they can make reasoned decisions and take informed action concerning their employment and their living conditions."

SUMMARY:

The act is to be known as the "Patient Right To Know Act" of 1991.

The Legislature finds that the right of health care professionals to privacy, although important, is far outweighed by the right of the consumer-patient to full and complete information concerning any possible risks of treatment. Therefore, the Legislature finds that it is in the public interest to establish a comprehensive procedure for the

disclosure of information regarding communicable diseases to patients, and to provide a procedure for the enforcement of the disclosure requirement.

The act applies to the following licensed health care professions, and to no others: acupuncturists, dental hygienists, dentists, midwives, nursing assistants, osteopaths, osteopathic physicians' assistants, physicians, physicians assistants, practical nurses, and registered nurses.

Notwithstanding any other provisions of law, a licensed member of the health care professions named in the act who is sick or infected with a dangerous or infectious disease, or with any disease which must be reported to the state board of health, must, in every case, before treating or caring for a patient in any manner involving physical contact, notify the patient or the patient's guardian, in writing, of the nature of the disease. Failure to do so is deemed unprofessional conduct under the applicable health professional licensing statutes, and is a criminal violation of 70.54.50 RCW, punishable as a misdemeanor.

Failure to provide notice as required under the act constitutes an unfair or deceptive act or practice in trade or commerce, and is punishable under the provisions of Chapter 19.86 RCW.

In any civil action arising out of failure to provide notice as required by the act, upon proof that notice was not given and that the patient contracted the disease which the health care professional was suffering from or was infected with, the burden of proof shall then shift to the defendant to show that the patient did not contract or become infected with the disease from the health care professional.

Appropriation: none

Revenue: none

Fiscal Note: none requested

Effective Date: The bill contains an emergency clause and takes effect immediately.