

2 **SB 6116 - H AMD 405**

3 By Representatives Campbell and others

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5 On page 3, after line 34, insert the following:

6 "NEW SECTION. **Sec. 2.** The legislature finds and declares that
7 just as workers and citizens have a right to know of the presence of
8 toxic and potentially dangerous materials in their workplace and
9 community, patients of health care professionals have a right to know
10 whether or not they are being treated by a person who is suffering
11 from, or infected with, a life-threatening disease or illness that is
12 potentially capable of being transmitted to the patient.

13 The legislature further finds and declares that the right of health
14 care professionals to privacy, although important, is far outweighed by
15 the right of the consumer-patient to full and complete information
16 concerning any possible risks of treatment.

17 The legislature therefore determines that to balance these
18 competing interests while maintaining the maximum privacy for the
19 parties involved, it is in the public interest to establish a
20 comprehensive procedure for the disclosure of information regarding
21 communicable diseases to patients and to provide a procedure for the
22 enforcement of the disclosure requirement.

23 NEW SECTION. **Sec. 3.** This chapter shall be known as the patient
24 right to know act.

25 NEW SECTION. **Sec. 4.** (1) This chapter applies only to health care
26 professionals licensed under the chapters specified in this section.
27 This chapter does not apply to any business or profession not licensed
28 under the chapters specified in this section.

29 (2) This chapter applies to the following health care
30 professionals:

- 31 (a) Acupuncturists certified under chapter 18.06 RCW;
- 32 (b) Dental hygienists licensed under chapter 18.29 RCW;
- 33 (c) Dentists licensed under chapter 18.32 RCW;
- 34 (d) Midwives licensed under chapter 18.50 RCW;

1 (e) Osteopathic physicians and surgeons licensed under chapter
2 18.57 RCW;

3 (f) Osteopathic physician's assistants certified under chapter
4 18.57A RCW;

5 (g) Physicians licensed under chapter 18.71 RCW;

6 (h) Physician assistants licensed under chapter 18.71A RCW;

7 (i) Registered nurses, advanced registered nurses, and licensed
8 practical nurses licensed under chapter 18.79 RCW; and

9 (j) Nursing assistants under chapter 18.88A RCW.

10 NEW SECTION. **Sec. 5.** Notwithstanding any other provision of law,
11 any health care professional listed in section 4 of this act who is
12 sick or infected with a dangerous or infectious disease, or with any
13 disease required by the state board of health to be reported, shall, in
14 every case, before treating or caring for a patient in any manner
15 involving physical contact, notify the patient or the patient's
16 guardian, in writing, of the nature of the disease which the health
17 care professional is suffering from or infected with.

18 NEW SECTION. **Sec. 6.** The failure of a health care professional to
19 give the notice required by section 5 of this act shall be deemed to be
20 unprofessional conduct under any applicable licensing and disciplinary
21 provisions related to such health care professional.

22 NEW SECTION. **Sec. 7.** The failure of a health care professional to
23 give the notice required by section 5 of this act, and the patient's
24 subsequent contraction of the disease of which the health care
25 professional is suffering from or infected by, shall be prima facie
26 evidence of a criminal violation of RCW 70.54.050.

27 NEW SECTION. **Sec. 8.** The failure of a health care professional to
28 give the notice required by section 5 of this act is a matter affecting
29 the public interest for the purpose of applying chapter 19.86 RCW. The
30 failure of a health care professional to give the notice required by
31 section 5 of this act is not reasonable in relation to the development
32 and preservation of business. A violation of this chapter constitutes
33 an unfair or deceptive act or practice in trade or commerce for the
34 purpose of applying chapter 19.86 RCW.

1 NEW SECTION. **Sec. 9.** In any civil action for damages arising from
2 a failure of a health care professional to give the notice required by
3 section 5 of this act, upon proof by the plaintiff that the required
4 notice was not given and that the patient contracted the disease which
5 the health care professional was suffering from or was infected with,
6 the burden of proof shall then shift to the defendant to prove that the
7 patient did not contract or become infected with the disease from the
8 health care professional.

9 NEW SECTION. **Sec. 10.** If any provision of this chapter or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 11.** Sections 2 through 10 of this act shall
14 constitute a new chapter in Title 70 RCW.

15 NEW SECTION. **Sec. 12.** Sections 2 through 10 of this act are
16 necessary for the immediate preservation of the public peace, health,
17 or safety, or support of the state government and its existing public
18 institutions, and shall take effect immediately."

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22 On page 1, line 2 of the title, after "authorization;" strike the
23 remainder of the title and insert "amending RCW 70.02.050; adding a new
24 chapter to Title 70 RCW; prescribing penalties; and declaring an
25 emergency."

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