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SENATE BILL 6756

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State of Washington

55th Legislature

1998 Regular Session

By Senators Wojahn and Deccio

Read first time 02/10/98. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the confidentiality of information and documents  
2 of a quality improvement committee subject to review and audit by the  
3 joint commission on accreditation of healthcare organizations; and  
4 amending RCW 70.41.200.

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

6 **Sec. 1.** RCW 70.41.200 and 1994 sp.s. c 9 s 742 are each amended to  
7 read as follows:

8 (1) Every hospital shall maintain a coordinated quality improvement  
9 program for the improvement of the quality of health care services  
10 rendered to patients and the identification and prevention of medical  
11 malpractice. The program shall include at least the following:

12 (a) The establishment of a quality improvement committee with the  
13 responsibility to review the services rendered in the hospital, both  
14 retrospectively and prospectively, in order to improve the quality of  
15 medical care of patients and to prevent medical malpractice. The  
16 committee shall oversee and coordinate the quality improvement and  
17 medical malpractice prevention program and shall insure that  
18 information gathered pursuant to the program is used to review and to  
19 revise hospital policies and procedures;

1 (b) A medical staff privileges sanction procedure through which  
2 credentials, physical and mental capacity, and competence in delivering  
3 health care services are periodically reviewed as part of an evaluation  
4 of staff privileges;

5 (c) The periodic review of the credentials, physical and mental  
6 capacity, and competence in delivering health care services of all  
7 persons who are employed or associated with the hospital;

8 (d) A procedure for the prompt resolution of grievances by patients  
9 or their representatives related to accidents, injuries, treatment, and  
10 other events that may result in claims of medical malpractice;

11 (e) The maintenance and continuous collection of information  
12 concerning the hospital's experience with negative health care outcomes  
13 and incidents injurious to patients, patient grievances, professional  
14 liability premiums, settlements, awards, costs incurred by the hospital  
15 for patient injury prevention, and safety improvement activities;

16 (f) The maintenance of relevant and appropriate information  
17 gathered pursuant to (a) through (e) of this subsection concerning  
18 individual physicians within the physician's personnel or credential  
19 file maintained by the hospital;

20 (g) Education programs dealing with quality improvement, patient  
21 safety, injury prevention, staff responsibility to report professional  
22 misconduct, the legal aspects of patient care, improved communication  
23 with patients, and causes of malpractice claims for staff personnel  
24 engaged in patient care activities; and

25 (h) Policies to ensure compliance with the reporting requirements  
26 of this section.

27 (2) Any person who, in substantial good faith, provides information  
28 to further the purposes of the quality improvement and medical  
29 malpractice prevention program or who, in substantial good faith,  
30 participates on the quality improvement committee shall not be subject  
31 to an action for civil damages or other relief as a result of such  
32 activity.

33 (3) Information and documents, including complaints and incident  
34 reports, created specifically for, and collected, and maintained by a  
35 quality improvement committee are not subject to discovery or  
36 introduction into evidence in any civil action, and no person who was  
37 in attendance at a meeting of such committee or who participated in the  
38 creation, collection, or maintenance of information or documents  
39 specifically for the committee shall be permitted or required to

1 testify in any civil action as to the content of such proceedings or  
2 the documents and information prepared specifically for the committee.  
3 This subsection does not preclude: (a) In any civil action, the  
4 discovery of the identity of persons involved in the medical care that  
5 is the basis of the civil action whose involvement was independent of  
6 any quality improvement activity; (b) in any civil action, the  
7 testimony of any person concerning the facts which form the basis for  
8 the institution of such proceedings of which the person had personal  
9 knowledge acquired independently of such proceedings; (c) in any civil  
10 action by a health care provider regarding the restriction or  
11 revocation of that individual's clinical or staff privileges,  
12 introduction into evidence information collected and maintained by  
13 quality improvement committees regarding such health care provider; (d)  
14 in any civil action, disclosure of the fact that staff privileges were  
15 terminated or restricted, including the specific restrictions imposed,  
16 if any and the reasons for the restrictions; or (e) in any civil  
17 action, discovery and introduction into evidence of the patient's  
18 medical records required by regulation of the department of health to  
19 be made regarding the care and treatment received.

20 (4) Each quality improvement committee shall, on at least a  
21 semiannual basis, report to the governing board of the hospital in  
22 which the committee is located. The report shall review the quality  
23 improvement activities conducted by the committee, and any actions  
24 taken as a result of those activities.

25 (5) The department of health shall adopt such rules as are deemed  
26 appropriate to effectuate the purposes of this section.

27 (6) The medical quality assurance commission or the board of  
28 osteopathic medicine and surgery, as appropriate, may review and audit  
29 the records of committee decisions in which a physician's privileges  
30 are terminated or restricted. Each hospital shall produce and make  
31 accessible to the commission or board the appropriate records and  
32 otherwise facilitate the review and audit. Information so gained shall  
33 not be subject to the discovery process and confidentiality shall be  
34 respected as required by subsection (3) of this section. Failure of a  
35 hospital to comply with this subsection is punishable by a civil  
36 penalty not to exceed two hundred fifty dollars.

37 (7) Information and documents of a quality improvement committee  
38 subject to review and audit by the joint commission on accreditation of  
39 healthcare organizations and any hospital information and documents,

1 including but not limited to a root cause analysis, created in  
2 connection with a sentinel event required to be reported to the joint  
3 commission on accreditation of healthcare organizations, shall not be  
4 subject to discovery or introduction into evidence in any civil action  
5 and confidentiality shall be respected as required by subsection (3) of  
6 this section.

7 (8) Violation of this section shall not be considered negligence  
8 per se.

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