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**SUBSTITUTE HOUSE BILL 1569**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Health Care (originally sponsored by Representatives Morrell, Clibborn, Skinner, Schual-Berke, Green, Moeller, Cody, Curtis, Condotta, Chase, O'Brien and Kenney)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to quality assurance in boarding homes, nursing  
2 homes, hospitals, peer review organizations, and coordinated quality  
3 improvement plans; amending RCW 18.20.390, 4.24.250, 43.70.510, and  
4 70.41.200; reenacting and amending RCW 42.17.310; adding a new section  
5 to chapter 74.42 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that facilitation of  
8 the quality assurance process in licensed boarding homes and nursing  
9 homes will promote safe patient care. The legislature also finds that  
10 communication and quality assurance efforts by boarding homes and  
11 nursing homes will achieve the goal of providing high quality of care  
12 to citizens residing in licensed boarding homes and nursing homes, and  
13 may reduce property and liability insurance premium costs for such  
14 facilities. The legislature further finds that sharing of quality  
15 assurance information between boarding homes, nursing homes,  
16 coordinated quality improvement plans, peer review organizations, and  
17 hospitals will promote safe patient care and ensure consistency of care  
18 across organizations and practices.

1       **Sec. 2.** RCW 18.20.390 and 2004 c 144 s 2 are each amended to read  
2 as follows:

3       (1) To ensure the proper delivery of services and the maintenance  
4 and improvement in quality of care through self-review, any boarding  
5 home licensed under this chapter may maintain a quality assurance  
6 committee that, at a minimum, includes:

7       (a) A licensed registered nurse under chapter 18.79 RCW;

8       (b) The administrator; and

9       (c) Three other members from the staff of the boarding home.

10       (2) When established, the quality assurance committee shall meet at  
11 least quarterly to identify issues that may adversely affect quality of  
12 care and services to residents and to develop and implement plans of  
13 action to correct identified quality concerns or deficiencies in the  
14 quality of care provided to residents.

15       (3) To promote quality of care through self-review without the fear  
16 of reprisal, and to enhance the objectivity of the review process, the  
17 department shall not require, and the long-term care ombudsman program  
18 shall not request, disclosure of any quality assurance committee  
19 records or reports, unless the disclosure is related to the committee's  
20 compliance with this section, if:

21       (a) The records or reports are not maintained pursuant to statutory  
22 or regulatory mandate; and

23       (b) The records or reports are created for and collected and  
24 maintained by the committee.

25       (4) If the boarding home refuses to release records or reports that  
26 would otherwise be protected under this section, the department may  
27 then request only that information that is necessary to determine  
28 whether the boarding home has a quality assurance committee and to  
29 determine that it is operating in compliance with this section.  
30 However, if the boarding home offers the department documents generated  
31 by, or for, the quality assurance committee as evidence of compliance  
32 with boarding home requirements, the documents are ~~((not))~~ protected as  
33 quality assurance committee documents under subsections (6) and (8) of  
34 this section when in the possession of the department. The department  
35 is not liable for an inadvertent disclosure, a disclosure related to a  
36 required federal or state audit, or disclosure of documents incorrectly  
37 marked as quality assurance committee documents by the facility.

1 (5) Good faith attempts by the committee to identify and correct  
2 quality deficiencies shall not be used as a basis for sanctions.

3 ~~(6) ((Any records that are created for and collected and maintained  
4 by the quality assurance committee shall not be discoverable or  
5 admitted into evidence in a civil action brought against a boarding  
6 home.~~

7 (7)) Information and documents, including the analysis of  
8 complaints and incident reports, created specifically for, and  
9 collected and maintained by, a quality assurance committee are not  
10 subject to discovery or introduction into evidence in any civil action,  
11 and no person who was in attendance at a meeting of such committee or  
12 who participated in the creation, collection, or maintenance of  
13 information or documents specifically for the committee shall be  
14 permitted or required to testify as to the content of such proceedings  
15 or the documents and information prepared specifically for the  
16 committee. This subsection does not preclude:

17 (a) In any civil action, the discovery of the identity of persons  
18 involved in the care that is the basis of the civil action whose  
19 involvement was independent of any quality improvement committee  
20 activity;

21 (b) In any civil action, the testimony of any person concerning the  
22 facts which form the basis for the institution of such proceedings of  
23 which the person had personal knowledge acquired independently of their  
24 participation in the quality assurance committee activities.

25 (7) A quality assurance committee under subsection (1) of this  
26 section, RCW 70.41.200, section 3 of this act, RCW 4.24.250, or  
27 43.70.510 may share information and documents, including the analysis  
28 of complaints and incident reports, created specifically for, and  
29 collected and maintained by, the committee, with one or more other  
30 quality assurance committees created under subsection (1) of this  
31 section, RCW 70.41.200, section 3 of this act, RCW 4.24.250, or  
32 43.70.510 for the improvement of the quality of care and services  
33 rendered to boarding home residents. Information and documents  
34 disclosed by one quality assurance committee to another quality  
35 assurance committee and any information and documents created or  
36 maintained as a result of the sharing of information and documents  
37 shall not be subject to the discovery process and confidentiality shall  
38 be respected as required by subsections (6) and (8) of this section,

1 RCW 43.70.510(4), 70.41.200(3), 4.24.250(1), and section 3 (7) and (9)  
2 of this act. The privacy protections of chapter 70.02 RCW and the  
3 federal health insurance portability and accountability act of 1996 and  
4 its implementing regulations apply to the sharing of individually  
5 identifiable patient information held by a coordinated quality  
6 improvement program. Any rules necessary to implement this section  
7 shall meet the requirements of applicable federal and state privacy  
8 laws.

9 (8) Information and documents, including the analysis of complaints  
10 and incident reports, created specifically for, and collected and  
11 maintained by, a quality assurance committee are exempt from disclosure  
12 under chapter 42.17 RCW.

13 (9) Notwithstanding any records created for the quality assurance  
14 committee, the facility shall fully set forth in the resident's  
15 records, available to the resident, the department, and others as  
16 permitted by law, the facts concerning any incident of injury or loss  
17 to the resident, the steps taken by the facility to address the  
18 resident's needs, and the resident outcome.

19 NEW SECTION. Sec. 3. A new section is added to chapter 74.42 RCW  
20 to read as follows:

21 (1) To ensure the proper delivery of services and the maintenance  
22 and improvement in quality of care through self-review, each facility  
23 may maintain a quality assurance committee that, at a minimum,  
24 includes:

25 (a) The director of nursing services;

26 (b) A physician designated by the facility; and

27 (c) Three other members from the staff of the facility.

28 (2) When established, the quality assurance committee shall meet at  
29 least quarterly to identify issues that may adversely affect quality of  
30 care and services to residents and to develop and implement plans of  
31 action to correct identified quality concerns or deficiencies in the  
32 quality of care provided to residents.

33 (3) To promote quality of care through self-review without the fear  
34 of reprisal, and to enhance the objectivity of the review process, the  
35 department shall not require, and the long-term care ombudsman program  
36 shall not request, disclosure of any quality assurance committee

1 records or reports, unless the disclosure is related to the committee's  
2 compliance with this section, if:

3 (a) The records or reports are not maintained pursuant to statutory  
4 or regulatory mandate; and

5 (b) The records or reports are created for and collected and  
6 maintained by the committee.

7 (4) The department may request only information related to the  
8 quality assurance committee that may be necessary to determine whether  
9 a facility has a quality assurance committee and that it is operating  
10 in compliance with this section.

11 (5) Good faith attempts by the committee to identify and correct  
12 quality deficiencies shall not be used as a basis for imposing  
13 sanctions.

14 (6) If the facility offers the department documents generated by,  
15 or for, the quality assurance committee as evidence of compliance with  
16 nursing facility requirements, the documents are protected as quality  
17 assurance committee documents under subsections (7) and (9) of this  
18 section when in the possession of the department. The department is  
19 not liable for an inadvertent disclosure, a disclosure related to a  
20 required federal or state audit, or disclosure of documents incorrectly  
21 marked as quality assurance committee documents by the facility.

22 (7) Information and documents, including the analysis of complaints  
23 and incident reports, created specifically for, and collected and  
24 maintained by, a quality assurance committee are not subject to  
25 discovery or introduction into evidence in any civil action, and no  
26 person who was in attendance at a meeting of such committee or who  
27 participated in the creation, collection, or maintenance of information  
28 or documents specifically for the committee shall be permitted or  
29 required to testify in any civil action as to the content of such  
30 proceedings or the documents and information prepared specifically for  
31 the committee. This subsection does not preclude: (a) In any civil  
32 action, the discovery of the identity of persons involved in the care  
33 that is the basis of the civil action whose involvement was independent  
34 of any quality improvement committee activity; and (b) in any civil  
35 action, the testimony of any person concerning the facts which form the  
36 basis for the institution of such proceedings of which the person had  
37 personal knowledge acquired independently of their participation in the  
38 quality assurance committee activities.

1 (8) A quality assurance committee under subsection (1) of this  
2 section, RCW 18.20.390, 70.41.200, 4.24.250, or 43.70.510 may share  
3 information and documents, including the analysis of complaints and  
4 incident reports, created specifically for, and collected and  
5 maintained by, the committee, with one or more other quality assurance  
6 committees created under subsection (1) of this section, RCW 18.20.390,  
7 70.41.200, 4.24.250, or 43.70.510 for the improvement of the quality of  
8 care and services rendered to nursing facility residents. Information  
9 and documents disclosed by one quality assurance committee to another  
10 quality assurance committee and any information and documents created  
11 or maintained as a result of the sharing of information and documents  
12 shall not be subject to the discovery process and confidentiality shall  
13 be respected as required by subsections (7) and (9) of this section,  
14 RCW 18.20.390 (6) and (8), 43.70.510(4), 70.41.200(3), and 4.24.250(1).  
15 The privacy protections of chapter 70.02 RCW and the federal health  
16 insurance portability and accountability act of 1996 and its  
17 implementing regulations apply to the sharing of individually  
18 identifiable patient information held by a coordinated quality  
19 improvement program. Any rules necessary to implement this section  
20 shall meet the requirements of applicable federal and state privacy  
21 laws.

22 (9) Information and documents, including the analysis of complaints  
23 and incident reports, created specifically for, and collected and  
24 maintained by, a quality assurance committee are exempt from disclosure  
25 under chapter 42.17 RCW.

26 (10) Notwithstanding any records created for the quality assurance  
27 committee, the facility shall fully set forth in the resident's  
28 records, available to the resident, the department, and others as  
29 permitted by law, the facts concerning any incident of injury or loss  
30 to the resident, the steps taken by the facility to address the  
31 resident's needs, and the resident outcome.

32 (11) A facility operated as part of a hospital licensed under  
33 chapter 70.41 RCW may maintain a quality assurance committee in  
34 accordance with this section which shall be subject to the provisions  
35 of subsections (1) through (10) of this section or may conduct quality  
36 improvement activities for the facility through a quality improvement  
37 committee under RCW 70.41.200 which shall be subject to the provisions  
38 of RCW 70.41.200(9).

1           **Sec. 4.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are  
2 each reenacted and amended to read as follows:

3           (1) The following are exempt from public inspection and copying:

4           (a) Personal information in any files maintained for students in  
5 public schools, patients or clients of public institutions or public  
6 health agencies, or welfare recipients.

7           (b) Personal information in files maintained for employees,  
8 appointees, or elected officials of any public agency to the extent  
9 that disclosure would violate their right to privacy.

10           (c) Information required of any taxpayer in connection with the  
11 assessment or collection of any tax if the disclosure of the  
12 information to other persons would (i) be prohibited to such persons by  
13 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
14 taxpayer's right to privacy or result in unfair competitive  
15 disadvantage to the taxpayer.

16           (d) Specific intelligence information and specific investigative  
17 records compiled by investigative, law enforcement, and penology  
18 agencies, and state agencies vested with the responsibility to  
19 discipline members of any profession, the nondisclosure of which is  
20 essential to effective law enforcement or for the protection of any  
21 person's right to privacy.

22           (e) Information revealing the identity of persons who are witnesses  
23 to or victims of crime or who file complaints with investigative, law  
24 enforcement, or penology agencies, other than the public disclosure  
25 commission, if disclosure would endanger any person's life, physical  
26 safety, or property. If at the time a complaint is filed the  
27 complainant, victim or witness indicates a desire for disclosure or  
28 nondisclosure, such desire shall govern. However, all complaints filed  
29 with the public disclosure commission about any elected official or  
30 candidate for public office must be made in writing and signed by the  
31 complainant under oath.

32           (f) Test questions, scoring keys, and other examination data used  
33 to administer a license, employment, or academic examination.

34           (g) Except as provided by chapter 8.26 RCW, the contents of real  
35 estate appraisals, made for or by any agency relative to the  
36 acquisition or sale of property, until the project or prospective sale  
37 is abandoned or until such time as all of the property has been

1 acquired or the property to which the sale appraisal relates is sold,  
2 but in no event shall disclosure be denied for more than three years  
3 after the appraisal.

4 (h) Valuable formulae, designs, drawings, computer source code or  
5 object code, and research data obtained by any agency within five years  
6 of the request for disclosure when disclosure would produce private  
7 gain and public loss.

8 (i) Preliminary drafts, notes, recommendations, and intra-agency  
9 memorandums in which opinions are expressed or policies formulated or  
10 recommended except that a specific record shall not be exempt when  
11 publicly cited by an agency in connection with any agency action.

12 (j) Records which are relevant to a controversy to which an agency  
13 is a party but which records would not be available to another party  
14 under the rules of pretrial discovery for causes pending in the  
15 superior courts.

16 (k) Records, maps, or other information identifying the location of  
17 archaeological sites in order to avoid the looting or depredation of  
18 such sites.

19 (l) Any library record, the primary purpose of which is to maintain  
20 control of library materials, or to gain access to information, which  
21 discloses or could be used to disclose the identity of a library user.

22 (m) Financial information supplied by or on behalf of a person,  
23 firm, or corporation for the purpose of qualifying to submit a bid or  
24 proposal for (i) a ferry system construction or repair contract as  
25 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
26 construction or improvement as required by RCW 47.28.070.

27 (n) Railroad company contracts filed prior to July 28, 1991, with  
28 the utilities and transportation commission under RCW 81.34.070, except  
29 that the summaries of the contracts are open to public inspection and  
30 copying as otherwise provided by this chapter.

31 (o) Financial and commercial information and records supplied by  
32 private persons pertaining to export services provided pursuant to  
33 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
34 export projects pursuant to RCW 43.23.035.

35 (p) Financial disclosures filed by private vocational schools under  
36 chapters 28B.85 and 28C.10 RCW.

37 (q) Records filed with the utilities and transportation commission

1 or attorney general under RCW 80.04.095 that a court has determined are  
2 confidential under RCW 80.04.095.

3 (r) Financial and commercial information and records supplied by  
4 businesses or individuals during application for loans or program  
5 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
6 or during application for economic development loans or program  
7 services provided by any local agency.

8 (s) Membership lists or lists of members or owners of interests of  
9 units in timeshare projects, subdivisions, camping resorts,  
10 condominiums, land developments, or common-interest communities  
11 affiliated with such projects, regulated by the department of  
12 licensing, in the files or possession of the department.

13 (t) All applications for public employment, including the names of  
14 applicants, resumes, and other related materials submitted with respect  
15 to an applicant.

16 (u) The residential addresses or residential telephone numbers of  
17 employees or volunteers of a public agency which are held by any public  
18 agency in personnel records, public employment related records, or  
19 volunteer rosters, or are included in any mailing list of employees or  
20 volunteers of any public agency.

21 (v) The residential addresses and residential telephone numbers of  
22 the customers of a public utility contained in the records or lists  
23 held by the public utility of which they are customers, except that  
24 this information may be released to the division of child support or  
25 the agency or firm providing child support enforcement for another  
26 state under Title IV-D of the federal social security act, for the  
27 establishment, enforcement, or modification of a support order.

28 (w)(i) The federal social security number of individuals governed  
29 under chapter 18.130 RCW maintained in the files of the department of  
30 health, except this exemption does not apply to requests made directly  
31 to the department from federal, state, and local agencies of  
32 government, and national and state licensing, credentialing,  
33 investigatory, disciplinary, and examination organizations; (ii) the  
34 current residential address and current residential telephone number of  
35 a health care provider governed under chapter 18.130 RCW maintained in  
36 the files of the department, if the provider requests that this  
37 information be withheld from public inspection and copying, and  
38 provides to the department an accurate alternate or business address

1 and business telephone number. On or after January 1, 1995, the  
2 current residential address and residential telephone number of a  
3 health care provider governed under RCW 18.130.040 maintained in the  
4 files of the department shall automatically be withheld from public  
5 inspection and copying unless the provider specifically requests the  
6 information be released, and except as provided for under RCW  
7 42.17.260(9).

8 (x) Information obtained by the board of pharmacy as provided in  
9 RCW 69.45.090.

10 (y) Information obtained by the board of pharmacy or the department  
11 of health and its representatives as provided in RCW 69.41.044,  
12 69.41.280, and 18.64.420.

13 (z) Financial information, business plans, examination reports, and  
14 any information produced or obtained in evaluating or examining a  
15 business and industrial development corporation organized or seeking  
16 certification under chapter 31.24 RCW.

17 (aa) Financial and commercial information supplied to the state  
18 investment board by any person when the information relates to the  
19 investment of public trust or retirement funds and when disclosure  
20 would result in loss to such funds or in private loss to the providers  
21 of this information.

22 (bb) Financial and valuable trade information under RCW 51.36.120.

23 (cc) Client records maintained by an agency that is a domestic  
24 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
25 crisis center as defined in RCW 70.125.030.

26 (dd) Information that identifies a person who, while an agency  
27 employee: (i) Seeks advice, under an informal process established by  
28 the employing agency, in order to ascertain his or her rights in  
29 connection with a possible unfair practice under chapter 49.60 RCW  
30 against the person; and (ii) requests his or her identity or any  
31 identifying information not be disclosed.

32 (ee) Investigative records compiled by an employing agency  
33 conducting a current investigation of a possible unfair practice under  
34 chapter 49.60 RCW or of a possible violation of other federal, state,  
35 or local laws prohibiting discrimination in employment.

36 (ff) Business related information protected from public inspection  
37 and copying under RCW 15.86.110.

1 (gg) Financial, commercial, operations, and technical and research  
2 information and data submitted to or obtained by the clean Washington  
3 center in applications for, or delivery of, program services under  
4 chapter 70.95H RCW.

5 (hh) Information and documents created specifically for, and  
6 collected and maintained by, a quality improvement committee pursuant  
7 to RCW 43.70.510 or 70.41.200, (~~or~~) by a peer review committee under  
8 RCW 4.24.250, or by a quality assurance committee pursuant to section  
9 3 of this act or RCW 18.20.390, regardless of which agency is in  
10 possession of the information and documents.

11 (ii) Personal information in files maintained in a data base  
12 created under RCW 43.07.360.

13 (jj) Financial and commercial information requested by the public  
14 stadium authority from any person or organization that leases or uses  
15 the stadium and exhibition center as defined in RCW 36.102.010.

16 (kk) Names of individuals residing in emergency or transitional  
17 housing that are furnished to the department of revenue or a county  
18 assessor in order to substantiate a claim for property tax exemption  
19 under RCW 84.36.043.

20 (ll) The names, residential addresses, residential telephone  
21 numbers, and other individually identifiable records held by an agency  
22 in relation to a vanpool, carpool, or other ride-sharing program or  
23 service. However, these records may be disclosed to other persons who  
24 apply for ride-matching services and who need that information in order  
25 to identify potential riders or drivers with whom to share rides.

26 (mm) The personally identifying information of current or former  
27 participants or applicants in a paratransit or other transit service  
28 operated for the benefit of persons with disabilities or elderly  
29 persons.

30 (nn) The personally identifying information of persons who acquire  
31 and use transit passes and other fare payment media including, but not  
32 limited to, stored value smart cards and magnetic strip cards, except  
33 that an agency may disclose this information to a person, employer,  
34 educational institution, or other entity that is responsible, in whole  
35 or in part, for payment of the cost of acquiring or using a transit  
36 pass or other fare payment media, or to the news media when reporting  
37 on public transportation or public safety. This information may also

1 be disclosed at the agency's discretion to governmental agencies or  
2 groups concerned with public transportation or public safety.

3 (oo) Proprietary financial and commercial information that the  
4 submitting entity, with review by the department of health,  
5 specifically identifies at the time it is submitted and that is  
6 provided to or obtained by the department of health in connection with  
7 an application for, or the supervision of, an antitrust exemption  
8 sought by the submitting entity under RCW 43.72.310. If a request for  
9 such information is received, the submitting entity must be notified of  
10 the request. Within ten business days of receipt of the notice, the  
11 submitting entity shall provide a written statement of the continuing  
12 need for confidentiality, which shall be provided to the requester.  
13 Upon receipt of such notice, the department of health shall continue to  
14 treat information designated under this section as exempt from  
15 disclosure. If the requester initiates an action to compel disclosure  
16 under this chapter, the submitting entity must be joined as a party to  
17 demonstrate the continuing need for confidentiality.

18 (pp) Records maintained by the board of industrial insurance  
19 appeals that are related to appeals of crime victims' compensation  
20 claims filed with the board under RCW 7.68.110.

21 (qq) Financial and commercial information supplied by or on behalf  
22 of a person, firm, corporation, or entity under chapter 28B.95 RCW  
23 relating to the purchase or sale of tuition units and contracts for the  
24 purchase of multiple tuition units.

25 (rr) Any records of investigative reports prepared by any state,  
26 county, municipal, or other law enforcement agency pertaining to sex  
27 offenses contained in chapter 9A.44 RCW or sexually violent offenses as  
28 defined in RCW 71.09.020, which have been transferred to the Washington  
29 association of sheriffs and police chiefs for permanent electronic  
30 retention and retrieval pursuant to RCW 40.14.070(2)(b).

31 (ss) Credit card numbers, debit card numbers, electronic check  
32 numbers, card expiration dates, or bank or other financial account  
33 numbers, except when disclosure is expressly required by or governed by  
34 other law.

35 (tt) Financial information, including but not limited to account  
36 numbers and values, and other identification numbers supplied by or on  
37 behalf of a person, firm, corporation, limited liability company,

1 partnership, or other entity related to an application for a liquor  
2 license, gambling license, or lottery retail license.

3 (uu) Records maintained by the employment security department and  
4 subject to chapter 50.13 RCW if provided to another individual or  
5 organization for operational, research, or evaluation purposes.

6 (vv) Individually identifiable information received by the work  
7 force training and education coordinating board for research or  
8 evaluation purposes.

9 (ww) Those portions of records assembled, prepared, or maintained  
10 to prevent, mitigate, or respond to criminal terrorist acts, which are  
11 acts that significantly disrupt the conduct of government or of the  
12 general civilian population of the state or the United States and that  
13 manifest an extreme indifference to human life, the public disclosure  
14 of which would have a substantial likelihood of threatening public  
15 safety, consisting of:

16 (i) Specific and unique vulnerability assessments or specific and  
17 unique response or deployment plans, including compiled underlying data  
18 collected in preparation of or essential to the assessments, or to the  
19 response or deployment plans; and

20 (ii) Records not subject to public disclosure under federal law  
21 that are shared by federal or international agencies, and information  
22 prepared from national security briefings provided to state or local  
23 government officials related to domestic preparedness for acts of  
24 terrorism.

25 (xx) Commercial fishing catch data from logbooks required to be  
26 provided to the department of fish and wildlife under RCW 77.12.047,  
27 when the data identifies specific catch location, timing, or  
28 methodology and the release of which would result in unfair competitive  
29 disadvantage to the commercial fisher providing the catch data.  
30 However, this information may be released to government agencies  
31 concerned with the management of fish and wildlife resources.

32 (yy) Sensitive wildlife data obtained by the department of fish and  
33 wildlife. However, sensitive wildlife data may be released to  
34 government agencies concerned with the management of fish and wildlife  
35 resources. Sensitive wildlife data includes:

36 (i) The nesting sites or specific locations of endangered species  
37 designated under RCW 77.12.020, or threatened or sensitive species  
38 classified by rule of the department of fish and wildlife;

1 (ii) Radio frequencies used in, or locational data generated by,  
2 telemetry studies; or

3 (iii) Other location data that could compromise the viability of a  
4 specific fish or wildlife population, and where at least one of the  
5 following criteria are met:

6 (A) The species has a known commercial or black market value;

7 (B) There is a history of malicious take of that species; or

8 (C) There is a known demand to visit, take, or disturb, and the  
9 species behavior or ecology renders it especially vulnerable or the  
10 species has an extremely limited distribution and concentration.

11 (zz) The personally identifying information of persons who acquire  
12 recreational licenses under RCW 77.32.010 or commercial licenses under  
13 chapter 77.65 or 77.70 RCW, except name, address of contact used by the  
14 department, and type of license, endorsement, or tag. However, the  
15 department of fish and wildlife may disclose personally identifying  
16 information to:

17 (i) Government agencies concerned with the management of fish and  
18 wildlife resources;

19 (ii) The department of social and health services, child support  
20 division, and to the department of licensing in order to implement RCW  
21 77.32.014 and 46.20.291; and

22 (iii) Law enforcement agencies for the purpose of firearm  
23 possession enforcement under RCW 9.41.040.

24 (aaa)(i) Discharge papers of a veteran of the armed forces of the  
25 United States filed at the office of the county auditor before July 1,  
26 2002, that have not been commingled with other recorded documents.  
27 These records will be available only to the veteran, the veteran's next  
28 of kin, a deceased veteran's properly appointed personal representative  
29 or executor, a person holding that veteran's general power of attorney,  
30 or to anyone else designated in writing by that veteran to receive the  
31 records.

32 (ii) Discharge papers of a veteran of the armed forces of the  
33 United States filed at the office of the county auditor before July 1,  
34 2002, that have been commingled with other records, if the veteran has  
35 recorded a "request for exemption from public disclosure of discharge  
36 papers" with the county auditor. If such a request has been recorded,  
37 these records may be released only to the veteran filing the papers,  
38 the veteran's next of kin, a deceased veteran's properly appointed

1 personal representative or executor, a person holding the veteran's  
2 general power of attorney, or anyone else designated in writing by the  
3 veteran to receive the records.

4 (iii) Discharge papers of a veteran filed at the office of the  
5 county auditor after June 30, 2002, are not public records, but will be  
6 available only to the veteran, the veteran's next of kin, a deceased  
7 veteran's properly appointed personal representative or executor, a  
8 person holding the veteran's general power of attorney, or anyone else  
9 designated in writing by the veteran to receive the records.

10 (iv) For the purposes of this subsection (1)(aaa), next of kin of  
11 deceased veterans have the same rights to full access to the record.  
12 Next of kin are the veteran's widow or widower who has not remarried,  
13 son, daughter, father, mother, brother, and sister.

14 (bbb) Those portions of records containing specific and unique  
15 vulnerability assessments or specific and unique emergency and escape  
16 response plans at a city, county, or state adult or juvenile  
17 correctional facility, the public disclosure of which would have a  
18 substantial likelihood of threatening the security of a city, county,  
19 or state adult or juvenile correctional facility or any individual's  
20 safety.

21 (ccc) Information compiled by school districts or schools in the  
22 development of their comprehensive safe school plans pursuant to RCW  
23 28A.320.125, to the extent that they identify specific vulnerabilities  
24 of school districts and each individual school.

25 (ddd) Information regarding the infrastructure and security of  
26 computer and telecommunications networks, consisting of security  
27 passwords, security access codes and programs, access codes for secure  
28 software applications, security and service recovery plans, security  
29 risk assessments, and security test results to the extent that they  
30 identify specific system vulnerabilities.

31 (eee) Information obtained and exempted or withheld from public  
32 inspection by the health care authority under RCW 41.05.026, whether  
33 retained by the authority, transferred to another state purchased  
34 health care program by the authority, or transferred by the authority  
35 to a technical review committee created to facilitate the development,  
36 acquisition, or implementation of state purchased health care under  
37 chapter 41.05 RCW.

1 (fff) Proprietary data, trade secrets, or other information that  
2 relates to: (i) A vendor's unique methods of conducting business; (ii)  
3 data unique to the product or services of the vendor; or (iii)  
4 determining prices or rates to be charged for services, submitted by  
5 any vendor to the department of social and health services for purposes  
6 of the development, acquisition, or implementation of state purchased  
7 health care as defined in RCW 41.05.011.

8 (2) Except for information described in subsection (1)(c)(i) of  
9 this section and confidential income data exempted from public  
10 inspection pursuant to RCW 84.40.020, the exemptions of this section  
11 are inapplicable to the extent that information, the disclosure of  
12 which would violate personal privacy or vital governmental interests,  
13 can be deleted from the specific records sought. No exemption may be  
14 construed to permit the nondisclosure of statistical information not  
15 descriptive of any readily identifiable person or persons.

16 (3) Inspection or copying of any specific records exempt under the  
17 provisions of this section may be permitted if the superior court in  
18 the county in which the record is maintained finds, after a hearing  
19 with notice thereof to every person in interest and the agency, that  
20 the exemption of such records is clearly unnecessary to protect any  
21 individual's right of privacy or any vital governmental function.

22 (4) Agency responses refusing, in whole or in part, inspection of  
23 any public record shall include a statement of the specific exemption  
24 authorizing the withholding of the record (or part) and a brief  
25 explanation of how the exemption applies to the record withheld.

26 **Sec. 5.** RCW 4.24.250 and 2004 c 145 s 1 are each amended to read  
27 as follows:

28 (1) Any health care provider as defined in RCW 7.70.020 (1) and (2)  
29 as now existing or hereafter amended who, in good faith, files charges  
30 or presents evidence against another member of their profession based  
31 on the claimed incompetency or gross misconduct of such person before  
32 a regularly constituted review committee or board of a professional  
33 society or hospital whose duty it is to evaluate the competency and  
34 qualifications of members of the profession, including limiting the  
35 extent of practice of such person in a hospital or similar institution,  
36 or before a regularly constituted committee or board of a hospital  
37 whose duty it is to review and evaluate the quality of patient care and

1 any person or entity who, in good faith, shares any information or  
2 documents with one or more other committees, boards, or programs under  
3 subsection (2) of this section, shall be immune from civil action for  
4 damages arising out of such activities. For the purposes of this  
5 section, sharing information is presumed to be in good faith. However,  
6 the presumption may be rebutted upon a showing of clear, cogent, and  
7 convincing evidence that the information shared was knowingly false or  
8 deliberately misleading. The proceedings, reports, and written records  
9 of such committees or boards, or of a member, employee, staff person,  
10 or investigator of such a committee or board, shall not be subject to  
11 subpoena or discovery proceedings in any civil action, except actions  
12 arising out of the recommendations of such committees or boards  
13 involving the restriction or revocation of the clinical or staff  
14 privileges of a health care provider as defined above.

15 (2) A coordinated quality improvement program maintained in  
16 accordance with RCW 43.70.510 or 70.41.200 (~~and~~), a quality assurance  
17 committee maintained in accordance with RCW 18.20.390 or section 3 of  
18 this act, or any committee(~~s~~) or board(~~s~~) under subsection (1) of  
19 this section may share information and documents, including complaints  
20 and incident reports, created specifically for, and collected and  
21 maintained by, a coordinated quality improvement committee or  
22 committees or boards under subsection (1) of this section, with one or  
23 more other coordinated quality improvement programs or committees or  
24 boards under subsection (1) of this section for the improvement of the  
25 quality of health care services rendered to patients and the  
26 identification and prevention of medical malpractice. The privacy  
27 protections of chapter 70.02 RCW and the federal health insurance  
28 portability and accountability act of 1996 and its implementing  
29 regulations apply to the sharing of individually identifiable patient  
30 information held by a coordinated quality improvement program. Any  
31 rules necessary to implement this section shall meet the requirements  
32 of applicable federal and state privacy laws. Information and  
33 documents disclosed by one coordinated quality improvement program or  
34 committee or board under subsection (1) of this section to another  
35 coordinated quality improvement program or committee or board under  
36 subsection (1) of this section and any information and documents  
37 created or maintained as a result of the sharing of information and  
38 documents shall not be subject to the discovery process and

1 confidentiality shall be respected as required by subsection (1) of  
2 this section and by RCW 43.70.510(4) (~~and~~), 70.41.200(3), 18.20.390  
3 (6) and (8), and section 3 (7) and (9) of this act.

4 **Sec. 6.** RCW 43.70.510 and 2004 c 145 s 2 are each amended to read  
5 as follows:

6 (1)(a) Health care institutions and medical facilities, other than  
7 hospitals, that are licensed by the department, professional societies  
8 or organizations, health care service contractors, health maintenance  
9 organizations, health carriers approved pursuant to chapter 48.43 RCW,  
10 and any other person or entity providing health care coverage under  
11 chapter 48.42 RCW that is subject to the jurisdiction and regulation of  
12 any state agency or any subdivision thereof may maintain a coordinated  
13 quality improvement program for the improvement of the quality of  
14 health care services rendered to patients and the identification and  
15 prevention of medical malpractice as set forth in RCW 70.41.200.

16 (b) All such programs shall comply with the requirements of RCW  
17 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to  
18 reflect the structural organization of the institution, facility,  
19 professional societies or organizations, health care service  
20 contractors, health maintenance organizations, health carriers, or any  
21 other person or entity providing health care coverage under chapter  
22 48.42 RCW that is subject to the jurisdiction and regulation of any  
23 state agency or any subdivision thereof, unless an alternative quality  
24 improvement program substantially equivalent to RCW 70.41.200(1)(a) is  
25 developed. All such programs, whether complying with the requirement  
26 set forth in RCW 70.41.200(1)(a) or in the form of an alternative  
27 program, must be approved by the department before the discovery  
28 limitations provided in subsections (3) and (4) of this section and the  
29 exemption under RCW 42.17.310(1)(hh) and subsection (5) of this section  
30 shall apply. In reviewing plans submitted by licensed entities that  
31 are associated with physicians' offices, the department shall ensure  
32 that the exemption under RCW 42.17.310(1)(hh) and the discovery  
33 limitations of this section are applied only to information and  
34 documents related specifically to quality improvement activities  
35 undertaken by the licensed entity.

36 (2) Health care provider groups of five or more providers may  
37 maintain a coordinated quality improvement program for the improvement

1 of the quality of health care services rendered to patients and the  
2 identification and prevention of medical malpractice as set forth in  
3 RCW 70.41.200. All such programs shall comply with the requirements of  
4 RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to  
5 reflect the structural organization of the health care provider group.  
6 All such programs must be approved by the department before the  
7 discovery limitations provided in subsections (3) and (4) of this  
8 section and the exemption under RCW 42.17.310(1)(hh) and subsection (5)  
9 of this section shall apply.

10 (3) Any person who, in substantial good faith, provides information  
11 to further the purposes of the quality improvement and medical  
12 malpractice prevention program or who, in substantial good faith,  
13 participates on the quality improvement committee shall not be subject  
14 to an action for civil damages or other relief as a result of such  
15 activity. Any person or entity participating in a coordinated quality  
16 improvement program that, in substantial good faith, shares information  
17 or documents with one or more other programs, committees, or boards  
18 under subsection (6) of this section is not subject to an action for  
19 civil damages or other relief as a result of the activity or its  
20 consequences. For the purposes of this section, sharing information is  
21 presumed to be in substantial good faith. However, the presumption may  
22 be rebutted upon a showing of clear, cogent, and convincing evidence  
23 that the information shared was knowingly false or deliberately  
24 misleading.

25 (4) Information and documents, including complaints and incident  
26 reports, created specifically for, and collected((~~7~~)) and maintained  
27 by a quality improvement committee are not subject to discovery or  
28 introduction into evidence in any civil action, and no person who was  
29 in attendance at a meeting of such committee or who participated in the  
30 creation, collection, or maintenance of information or documents  
31 specifically for the committee shall be permitted or required to  
32 testify in any civil action as to the content of such proceedings or  
33 the documents and information prepared specifically for the committee.  
34 This subsection does not preclude: (a) In any civil action, the  
35 discovery of the identity of persons involved in the medical care that  
36 is the basis of the civil action whose involvement was independent of  
37 any quality improvement activity; (b) in any civil action, the  
38 testimony of any person concerning the facts that form the basis for

1 the institution of such proceedings of which the person had personal  
2 knowledge acquired independently of such proceedings; (c) in any civil  
3 action by a health care provider regarding the restriction or  
4 revocation of that individual's clinical or staff privileges,  
5 introduction into evidence information collected and maintained by  
6 quality improvement committees regarding such health care provider; (d)  
7 in any civil action challenging the termination of a contract by a  
8 state agency with any entity maintaining a coordinated quality  
9 improvement program under this section if the termination was on the  
10 basis of quality of care concerns, introduction into evidence of  
11 information created, collected, or maintained by the quality  
12 improvement committees of the subject entity, which may be under terms  
13 of a protective order as specified by the court; (e) in any civil  
14 action, disclosure of the fact that staff privileges were terminated or  
15 restricted, including the specific restrictions imposed, if any and the  
16 reasons for the restrictions; or (f) in any civil action, discovery and  
17 introduction into evidence of the patient's medical records required by  
18 rule of the department of health to be made regarding the care and  
19 treatment received.

20 (5) Information and documents created specifically for, and  
21 collected and maintained by, a quality improvement committee are exempt  
22 from disclosure under chapter 42.17 RCW.

23 (6) A coordinated quality improvement program may share information  
24 and documents, including complaints and incident reports, created  
25 specifically for, and collected and maintained by, a quality  
26 improvement committee or a peer review committee under RCW 4.24.250  
27 with one or more other coordinated quality improvement programs  
28 maintained in accordance with this section or with RCW 70.41.200, a  
29 quality assurance committee maintained in accordance with RCW 18.20.390  
30 or section 3 of this act, or a peer review committee under RCW  
31 4.24.250, for the improvement of the quality of health care services  
32 rendered to patients and the identification and prevention of medical  
33 malpractice. The privacy protections of chapter 70.02 RCW and the  
34 federal health insurance portability and accountability act of 1996 and  
35 its implementing regulations apply to the sharing of individually  
36 identifiable patient information held by a coordinated quality  
37 improvement program. Any rules necessary to implement this section  
38 shall meet the requirements of applicable federal and state privacy

1 laws. Information and documents disclosed by one coordinated quality  
2 improvement program to another coordinated quality improvement program  
3 or a peer review committee under RCW 4.24.250 and any information and  
4 documents created or maintained as a result of the sharing of  
5 information and documents shall not be subject to the discovery process  
6 and confidentiality shall be respected as required by subsection (4) of  
7 this section and RCW 4.24.250.

8 (7) The department of health shall adopt rules as are necessary to  
9 implement this section.

10 **Sec. 7.** RCW 70.41.200 and 2004 c 145 s 3 are each amended to read  
11 as follows:

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

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

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

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

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

34 (e) The maintenance and continuous collection of information  
35 concerning the hospital's experience with negative health care outcomes  
36 and incidents injurious to patients, patient grievances, professional

1 liability premiums, settlements, awards, costs incurred by the hospital  
2 for patient injury prevention, and safety improvement activities;

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

7 (g) Education programs dealing with quality improvement, patient  
8 safety, medication errors, injury prevention, staff responsibility to  
9 report professional misconduct, the legal aspects of patient care,  
10 improved communication with patients, and causes of malpractice claims  
11 for staff personnel engaged in patient care activities; and

12 (h) Policies to ensure compliance with the reporting requirements  
13 of this section.

14 (2) Any person who, in substantial good faith, provides information  
15 to further the purposes of the quality improvement and medical  
16 malpractice prevention program or who, in substantial good faith,  
17 participates on the quality improvement committee shall not be subject  
18 to an action for civil damages or other relief as a result of such  
19 activity. Any person or entity participating in a coordinated quality  
20 improvement program that, in substantial good faith, shares information  
21 or documents with one or more other programs, committees, or boards  
22 under subsection (8) of this section is not subject to an action for  
23 civil damages or other relief as a result of the activity. For the  
24 purposes of this section, sharing information is presumed to be in  
25 substantial good faith. However, the presumption may be rebutted upon  
26 a showing of clear, cogent, and convincing evidence that the  
27 information shared was knowingly false or deliberately misleading.

28 (3) Information and documents, including complaints and incident  
29 reports, created specifically for, and collected((7)) and maintained  
30 by a quality improvement committee are not subject to discovery or  
31 introduction into evidence in any civil action, and no person who was  
32 in attendance at a meeting of such committee or who participated in the  
33 creation, collection, or maintenance of information or documents  
34 specifically for the committee shall be permitted or required to  
35 testify in any civil action as to the content of such proceedings or  
36 the documents and information prepared specifically for the committee.  
37 This subsection does not preclude: (a) In any civil action, the  
38 discovery of the identity of persons involved in the medical care that

1 is the basis of the civil action whose involvement was independent of  
2 any quality improvement activity; (b) in any civil action, the  
3 testimony of any person concerning the facts which form the basis for  
4 the institution of such proceedings of which the person had personal  
5 knowledge acquired independently of such proceedings; (c) in any civil  
6 action by a health care provider regarding the restriction or  
7 revocation of that individual's clinical or staff privileges,  
8 introduction into evidence information collected and maintained by  
9 quality improvement committees regarding such health care provider; (d)  
10 in any civil action, disclosure of the fact that staff privileges were  
11 terminated or restricted, including the specific restrictions imposed,  
12 if any and the reasons for the restrictions; or (e) in any civil  
13 action, discovery and introduction into evidence of the patient's  
14 medical records required by regulation of the department of health to  
15 be made regarding the care and treatment received.

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

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

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

33 (7) The department, the joint commission on accreditation of health  
34 care organizations, and any other accrediting organization may review  
35 and audit the records of a quality improvement committee or peer review  
36 committee in connection with their inspection and review of hospitals.  
37 Information so obtained shall not be subject to the discovery process,  
38 and confidentiality shall be respected as required by subsection (3) of

1 this section. Each hospital shall produce and make accessible to the  
2 department the appropriate records and otherwise facilitate the review  
3 and audit.

4 (8) A coordinated quality improvement program may share information  
5 and documents, including complaints and incident reports, created  
6 specifically for, and collected and maintained by, a quality  
7 improvement committee or a peer review committee under RCW 4.24.250  
8 with one or more other coordinated quality improvement programs  
9 maintained in accordance with this section or ~~((with))~~ RCW 43.70.510,  
10 a quality assurance committee maintained in accordance with RCW  
11 18.20.390 or section 3 of this act, or a peer review committee under  
12 RCW 4.24.250, for the improvement of the quality of health care  
13 services rendered to patients and the identification and prevention of  
14 medical malpractice. The privacy protections of chapter 70.02 RCW and  
15 the federal health insurance portability and accountability act of 1996  
16 and its implementing regulations apply to the sharing of individually  
17 identifiable patient information held by a coordinated quality  
18 improvement program. Any rules necessary to implement this section  
19 shall meet the requirements of applicable federal and state privacy  
20 laws. Information and documents disclosed by one coordinated quality  
21 improvement program to another coordinated quality improvement program  
22 or a peer review committee under RCW 4.24.250 and any information and  
23 documents created or maintained as a result of the sharing of  
24 information and documents shall not be subject to the discovery process  
25 and confidentiality shall be respected as required by subsection (3) of  
26 this section, RCW 18.20.390 (6) and (8), section 3 (7) and (9) of this  
27 act, and RCW 4.24.250.

28 (9) A hospital that operates a nursing home as defined in RCW  
29 18.51.010 may conduct quality improvement activities for both the  
30 hospital and the nursing home through a quality improvement committee  
31 under this section, and such activities shall be subject to the  
32 provisions of subsections (2) through (8) of this section.

33 (10) Violation of this section shall not be considered negligence  
34 per se.

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