
HOUSE BILL 1782

State of Washington 59th Legislature 2005 Regular Session

By Representatives Schual-Berke, Green, Morrell and Springer

Read first time 02/04/2005. Referred to Committee on Health Care.

1 AN ACT Relating to the qualifications of coordinated quality
2 improvement programs; and amending RCW 43.70.510.

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

4 **Sec. 1.** 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

1 contractors, health maintenance organizations, health carriers, or any
2 other person or entity providing health care coverage under chapter
3 48.42 RCW that is subject to the jurisdiction and regulation of any
4 state agency or any subdivision thereof, unless an alternative quality
5 improvement program substantially equivalent to RCW 70.41.200(1)(a) is
6 developed. All such programs, whether complying with the requirement
7 set forth in RCW 70.41.200(1)(a) or in the form of an alternative
8 program, must be approved by the department before the discovery
9 limitations provided in subsections (3) and (4) of this section and the
10 exemption under RCW 42.17.310(1)(hh) and subsection (5) of this section
11 shall apply. In reviewing plans submitted by licensed entities that
12 are associated with physicians' offices, the department shall ensure
13 that the exemption under RCW 42.17.310(1)(hh) and the discovery
14 limitations of this section are applied only to information and
15 documents related specifically to quality improvement activities
16 undertaken by the licensed entity.

17 (2) Health care provider groups of five or more providers may
18 maintain a coordinated quality improvement program for the improvement
19 of the quality of health care services rendered to patients and the
20 identification and prevention of medical malpractice as set forth in
21 RCW 70.41.200. For purposes of this section, a health care provider
22 group may be a consortium of providers consisting of five or more
23 providers in total. All such programs shall comply with the
24 requirements of RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h)
25 as modified to reflect the structural organization of the health care
26 provider group. All such programs must be approved by the department
27 before the discovery limitations provided in subsections (3) and (4) of
28 this section and the exemption under RCW 42.17.310(1)(hh) and
29 subsection (5) of this section shall apply.

30 (3) Any person who, in substantial good faith, provides information
31 to further the purposes of the quality improvement and medical
32 malpractice prevention program or who, in substantial good faith,
33 participates on the quality improvement committee shall not be subject
34 to an action for civil damages or other relief as a result of such
35 activity. Any person or entity participating in a coordinated quality
36 improvement program that, in substantial good faith, shares information
37 or documents with one or more other programs, committees, or boards
38 under subsection (6) of this section is not subject to an action for

1 civil damages or other relief as a result of the activity or its
2 consequences. For the purposes of this section, sharing information is
3 presumed to be in substantial good faith. However, the presumption may
4 be rebutted upon a showing of clear, cogent, and convincing evidence
5 that the information shared was knowingly false or deliberately
6 misleading.

7 (4) Information and documents, including complaints and incident
8 reports, created specifically for, and collected, and maintained by a
9 quality improvement committee are not subject to discovery or
10 introduction into evidence in any civil action, and no person who was
11 in attendance at a meeting of such committee or who participated in the
12 creation, collection, or maintenance of information or documents
13 specifically for the committee shall be permitted or required to
14 testify in any civil action as to the content of such proceedings or
15 the documents and information prepared specifically for the committee.
16 This subsection does not preclude: (a) In any civil action, the
17 discovery of the identity of persons involved in the medical care that
18 is the basis of the civil action whose involvement was independent of
19 any quality improvement activity; (b) in any civil action, the
20 testimony of any person concerning the facts that form the basis for
21 the institution of such proceedings of which the person had personal
22 knowledge acquired independently of such proceedings; (c) in any civil
23 action by a health care provider regarding the restriction or
24 revocation of that individual's clinical or staff privileges,
25 introduction into evidence information collected and maintained by
26 quality improvement committees regarding such health care provider; (d)
27 in any civil action challenging the termination of a contract by a
28 state agency with any entity maintaining a coordinated quality
29 improvement program under this section if the termination was on the
30 basis of quality of care concerns, introduction into evidence of
31 information created, collected, or maintained by the quality
32 improvement committees of the subject entity, which may be under terms
33 of a protective order as specified by the court; (e) in any civil
34 action, disclosure of the fact that staff privileges were terminated or
35 restricted, including the specific restrictions imposed, if any and the
36 reasons for the restrictions; or (f) in any civil action, discovery and
37 introduction into evidence of the patient's medical records required by

1 rule of the department of health to be made regarding the care and
2 treatment received.

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

6 (6) A coordinated quality improvement program may share information
7 and documents, including complaints and incident reports, created
8 specifically for, and collected and maintained by a quality improvement
9 committee or a peer review committee under RCW 4.24.250 with one or
10 more other coordinated quality improvement programs maintained in
11 accordance with this section or with RCW 70.41.200 or a peer review
12 committee under RCW 4.24.250, for the improvement of the quality of
13 health care services rendered to patients and the identification and
14 prevention of medical malpractice. The privacy protections of chapter
15 70.02 RCW and the federal health insurance portability and
16 accountability act of 1996 and its implementing regulations apply to
17 the sharing of individually identifiable patient information held by a
18 coordinated quality improvement program. Any rules necessary to
19 implement this section shall meet the requirements of applicable
20 federal and state privacy laws. Information and documents disclosed by
21 one coordinated quality improvement program to another coordinated
22 quality improvement program or a peer review committee under RCW
23 4.24.250 and any information and documents created or maintained as a
24 result of the sharing of information and documents shall not be subject
25 to the discovery process and confidentiality shall be respected as
26 required by subsection (4) of this section and RCW 4.24.250.

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

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