
HOUSE BILL 2520

State of Washington

59th Legislature

2006 Regular Session

By Representative Nixon

Read first time 01/10/2006. Referred to Committee on State Government Operations & Accountability.

1 AN ACT Relating to recodifying and making technical corrections to
2 public disclosure law; amending RCW 7.07.050, 15.53.9018, 18.20.390,
3 29A.60.165, 48.31.405, 42.56.250, 42.56.270, 42.56.330, 42.56.360,
4 74.15.310, 74.15.320, 74.15.330, 74.42.640, and 90.64.190; adding new
5 sections to chapter 42.56 RCW; recodifying RCW 42.17.253, 42.17.31922,
6 and 42.17.31923; and providing an effective date.

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

8 **Sec. 1.** RCW 7.07.050 and 2005 c 172 s 6 are each amended to read
9 as follows:

10 (1) There is no privilege under RCW 7.07.030 for a mediation
11 communication that is:

12 (a) In an agreement evidenced by a record signed by all parties to
13 the agreement;

14 (b) Made during a session of a mediation which is open, or is
15 required by law to be open, to the public;

16 (c) A threat or statement of a plan to inflict bodily injury or
17 commit a crime of violence;

18 (d) Intentionally used to plan a crime, attempt to commit or commit
19 a crime, or to conceal an ongoing crime or ongoing criminal activity;

1 (e) Sought or offered to prove or disprove a claim or complaint of
2 professional misconduct or malpractice filed against a mediator;

3 (f) Except as otherwise provided in subsection (3) of this section,
4 sought or offered to prove or disprove a claim or complaint of
5 professional misconduct or malpractice filed against a mediation party,
6 nonparty participant, or representative of a party based on conduct
7 occurring during a mediation; or

8 (g) Sought or offered to prove or disprove abuse, neglect,
9 abandonment, or exploitation in a proceeding in which a child or adult
10 protective services agency is a party, unless the public agency
11 participates in the child or adult protection mediation.

12 (2) There is no privilege under RCW 7.07.030 if a court finds,
13 after a hearing in camera, that the party seeking discovery or the
14 proponent of the evidence has shown that the evidence is not otherwise
15 available, that there is a need for the evidence that substantially
16 outweighs the interest in protecting confidentiality, and that the
17 mediation communication is sought or offered in:

18 (a) A criminal court proceeding involving a felony; or

19 (b) Except as otherwise provided in subsection (3) of this section,
20 a proceeding to prove a claim to rescind or reform or a defense to
21 avoid liability on a contract arising out of the mediation.

22 (3) A mediator may not be compelled to provide evidence of a
23 mediation communication referred to in subsection (1)(f) or (2)(b) of
24 this section.

25 (4) If a mediation communication is not privileged under subsection
26 (1) or (2) of this section, only the portion of the communication
27 necessary for the application of the exception from nondisclosure may
28 be admitted. Admission of evidence under subsection (1) or (2) of this
29 section does not render the evidence, or any other mediation
30 communication, discoverable or admissible for any other purpose.

31 (5) Records of mediation communications that are privileged under
32 this chapter are exempt from the requirements of chapter (~~42.17~~)
33 42.56 RCW.

34 **Sec. 2.** RCW 15.53.9018 and 2005 c 18 s 7 are each amended to read
35 as follows:

36 (1) Every registrant or licensee must file a semiannual report on
37 forms provided by the department setting forth the number of tons of

1 commercial feed distributed in or into this state. The report must be
2 filed regardless of the amount of feed distributed or inspection fees
3 owed. The report must include:

4 (a) The name and mailing address of the registrant or licensee;

5 (b) The physical address of the registrant or licensee;

6 (c) The name, contact information, and signature of the person
7 filing the report;

8 (d) The total number of tons distributed in or into this state;

9 (e) The total number of tons on which the registrant or licensee is
10 paying;

11 (f) If the registrant or licensee is not paying inspection fees on
12 all commercial feed he or she distributed in or into this state,
13 information regarding the registrants or licensees that are responsible
14 for paying the inspection fees and the number of tons involved; and

15 (g) Other information required by the department by rule.

16 (2) Except as provided in subsections (3) through (5) of this
17 section, each initial distributor or responsible buyer must pay to the
18 department an inspection fee on all commercial feed distributed by such
19 person during the reporting period. The inspection fee must accompany
20 the report required in subsection (1) of this section. The inspection
21 fee shall be not less than four cents nor more than twelve cents per
22 ton as prescribed by the department by rule. These fees shall be used
23 for enforcement and administration of this chapter and its rules.

24 (3) The initial distributor is not required to pay an inspection
25 fee for commercial feed he or she distributed to a responsible buyer.

26 (4) In a situation where a responsible buyer is distributing to
27 another responsible buyer, the inspection fee must be paid by the last
28 responsible buyer to distribute the commercial feed.

29 (5) The initial distributor or responsible buyer is not required to
30 pay an inspection fee for: (a) Pet food and specialty pet food
31 distributed in packages weighing less than ten pounds; (b) distribution
32 of bona fide experimental feeds on which accurate records and
33 experimental programs are maintained; (c) commercial feed distributed
34 to points outside this state; and (d) food processing byproducts from
35 fruit, vegetable, or potato processing plants, freezing or dehydrating
36 facilities, or juice or jelly preserving plants.

37 (6) Tonnage will be reported and inspection fees will be paid on

1 (a) byproducts or products of sugar refineries; and (b) materials used
2 in the preparation of pet foods and specialty pet food.

3 (7)(a) Each person made responsible by this chapter for filing a
4 report or paying inspection fees must do so according to the following
5 schedule:

6 (i) For the period January 1st through June 30th of each year, the
7 report and inspection fees are due on July 31st of that year; and

8 (ii) For the period July 1st through December 31st of each year,
9 the report and inspection fees are due on January 31st of the following
10 year.

11 (b) If a complete report is not received by the due date or the
12 appropriate inspection fees are not received by the due date, the
13 person responsible for filing the report or paying the inspection fee
14 must pay a late fee equal to fifteen percent of the inspection fee owed
15 or fifty dollars, whichever is greater.

16 (c) The department may cancel the registration of a person's
17 commercial feed or may cancel a person's commercial feed license if
18 that person fails to pay the late fee. The applicant or licensee may
19 request a hearing as authorized under chapter 34.05 RCW.

20 (8) If inspection fees are owed, the minimum inspection fee is
21 twelve dollars and fifty cents.

22 (9) For the purpose of verifying the accuracy of reports and
23 payment of appropriate inspection fees, the department may examine, at
24 reasonable times, a registrant's or licensee's distribution records and
25 may require each registrant or licensee to maintain records or file
26 additional reports. These records must be maintained in usable
27 condition by the registrant or licensee for a period of three years
28 unless by rule this retention period is extended and must be submitted
29 to the department upon request.

30 (10) The report required by subsection (1) of this section shall
31 not be a public record, and any information given in such report which
32 would reveal the business operation of the person making the report is
33 exempt from public disclosure under chapter ((42.17)) 42.56 RCW, and
34 information obtained by the department from other governmental agencies
35 or other sources that is used to verify information received in the
36 report is exempt from public disclosure under chapter ((42.17)) 42.56
37 RCW. However, this subsection does not prevent the use of information
38 concerning the business operation of a person if any action, suit, or

1 proceeding instituted under the authority of this chapter, including
2 any civil action for collection of unpaid inspection fees, which action
3 is hereby authorized and which shall be as an action at law in the name
4 of the director of the department.

5 (11) Any commercial feed obtained by a consumer or contract feeder
6 outside the jurisdiction of this state and brought into this state for
7 use is subject to all the provisions of this chapter, including
8 inspection fees.

9 **Sec. 3.** RCW 18.20.390 and 2005 c 33 s 2 are each amended to read
10 as follows:

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

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

16 (b) The administrator; and

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

18 (2) When established, the quality assurance committee shall meet at
19 least quarterly to identify issues that may adversely affect quality of
20 care and services to residents and to develop and implement plans of
21 action to correct identified quality concerns or deficiencies in the
22 quality of care provided to residents.

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

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

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

33 (4) If the boarding home refuses to release records or reports that
34 would otherwise be protected under this section, the department may
35 then request only that information that is necessary to determine
36 whether the boarding home has a quality assurance committee and to
37 determine that it is operating in compliance with this section.

1 However, if the boarding home offers the department documents generated
2 by, or for, the quality assurance committee as evidence of compliance
3 with boarding home requirements, the documents are protected as quality
4 assurance committee documents under subsections (6) and (8) of this
5 section when in the possession of the department. The department is
6 not liable for an inadvertent disclosure, a disclosure related to a
7 required federal or state audit, or disclosure of documents incorrectly
8 marked as quality assurance committee documents by the facility.

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

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

21 (a) In any civil action, the discovery of the identity of persons
22 involved in the care that is the basis of the civil action whose
23 involvement was independent of any quality improvement committee
24 activity;

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

29 (7) A quality assurance committee under subsection (1) of this
30 section, RCW 70.41.200, 74.42.640, 4.24.250, or 43.70.510 may share
31 information and documents, including the analysis of complaints and
32 incident reports, created specifically for, and collected and
33 maintained by, the committee, with one or more other quality assurance
34 committees created under subsection (1) of this section, RCW 70.41.200,
35 74.42.640, 4.24.250, or 43.70.510 for the improvement of the quality of
36 care and services rendered to boarding home residents. Information and
37 documents disclosed by one quality assurance committee to another
38 quality assurance committee and any information and documents created

1 or maintained as a result of the sharing of information and documents
2 shall not be subject to the discovery process and confidentiality shall
3 be respected as required by subsections (6) and (8) of this section,
4 RCW 43.70.510(4), 70.41.200(3), 4.24.250(1), and 74.42.640 (7) and (9).
5 The privacy protections of chapter 70.02 RCW and the federal health
6 insurance portability and accountability act of 1996 and its
7 implementing regulations apply to the sharing of individually
8 identifiable patient information held by a coordinated quality
9 improvement program. Any rules necessary to implement this section
10 shall meet the requirements of applicable federal and state privacy
11 laws.

12 (8) Information and documents, including the analysis of complaints
13 and incident reports, created specifically for, and collected and
14 maintained by, a quality assurance committee are exempt from disclosure
15 under chapter ((42.17)) 42.56 RCW.

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

22 **Sec. 4.** RCW 29A.60.165 and 2005 c 243 s 8 are each amended to read
23 as follows:

24 (1) If the voter neglects to sign the outside envelope of an
25 absentee or provisional ballot, the auditor shall notify the voter by
26 telephone and advise the voter of the correct procedures for completing
27 the unsigned affidavit. If the auditor is not able to provide the
28 information personally to the voter by telephone, then the voter must
29 be contacted by first class mail and advised of the correct procedures
30 for completing the unsigned affidavit. Leaving a voice mail message
31 for the voter is not to be considered as personally contacting the
32 voter. In order for the ballot to be counted, the voter must either:

33 (a) Appear in person and sign the envelope no later than the day
34 before the certification of the primary or election; or

35 (b) Sign a copy of the envelope provided by the auditor, and return
36 it to the auditor no later than the day before the certification of the
37 primary or election.

1 (2)(a) If the handwriting of the signature on an absentee or
2 provisional ballot envelope is not the same as the handwriting of the
3 signature on the registration file, the auditor shall notify the voter
4 by telephone and advise the voter of the correct procedures for
5 updating his or her signature on the voter registration file. If the
6 auditor is not able to provide the information personally to the voter
7 by telephone, then the voter must be contacted by first class mail and
8 advised of the correct procedures for completing the unsigned
9 affidavit. Leaving a voice mail message for the voter is not to be
10 considered as personally contacting the voter. In order for the ballot
11 to be counted, the voter must either:

12 (i) Appear in person and sign a new registration form no later than
13 the day before the certification of the primary or election; or

14 (ii) Sign a copy of the affidavit provided by the auditor and
15 return it to the auditor no later than the day before the certification
16 of the primary or election. If the signature on the copy of the
17 affidavit does not match the signature on file, the voter must appear
18 in person and sign a new registration form no later than the day before
19 the certification of the primary or election in order for the ballot to
20 be counted.

21 (b) If the signature on an absentee or provisional ballot envelope
22 is not the same as the signature on the registration file because the
23 name is different, the ballot may be counted as long as the handwriting
24 is clearly the same. The auditor shall send the voter a change-of-name
25 form under RCW 29A.08.440 and direct the voter to complete the form.

26 (c) If the signature on an absentee or provisional ballot envelope
27 is not the same as the signature on the registration file because the
28 voter used initials or a common nickname, the ballot may be counted as
29 long as the surname and handwriting are clearly the same.

30 (3) A voter may not cure a missing or mismatched signature for
31 purposes of counting the ballot in a recount.

32 (4) A record must be kept of all ballots with missing and
33 mismatched signatures. The record must contain the date on which the
34 voter was contacted or the notice was mailed, as well as the date on
35 which the voter signed the envelope, a copy of the envelope, a new
36 registration form, or a change-of-name form. That record is a public
37 record under chapter ((42.17)) 42.56 RCW and may be disclosed to
38 interested parties on written request.

1 **Sec. 5.** RCW 48.31.405 and 2005 c 432 s 4 are each amended to read
2 as follows:

3 (1) Except as set forth in this section, proceedings, hearings,
4 notices, correspondence, reports, records, and other information in the
5 possession of the commissioner relating to the supervision of any
6 insurer under this chapter are confidential and are not subject to
7 chapter ((42.17)) 42.56 RCW, are not subject to subpoena, and are not
8 subject to discovery or admissible in evidence in any private civil
9 action, except as provided by this section. However, the commissioner
10 is authorized to use the documents, materials, or other information in
11 the furtherance of any regulatory or legal action brought as part of
12 the commissioner's official duties.

13 (2) The employees of the commissioner have access to these
14 proceedings, hearings, notices, correspondence, reports, records, or
15 information as permitted by the commissioner. Neither the commissioner
16 nor any person who received documents, materials, or other information
17 while acting under the authority of the commissioner is permitted or
18 required to testify in any private civil action concerning any
19 confidential documents, materials, or information subject to subsection
20 (1) of this section.

21 (3) The commissioner may share the notices, correspondence,
22 reports, records, or information with other state, federal, and
23 international regulatory agencies, with the national association of
24 insurance commissioners and its affiliates and subsidiaries, and with
25 state, federal, and international law enforcement authorities, if the
26 commissioner determines that the disclosure is necessary or proper for
27 the enforcement of the laws of this or another state of the United
28 States, and provided that the recipient agrees to maintain the
29 confidentiality of the documents, material, or other information. No
30 waiver of any applicable privilege or claim of confidentiality may
31 occur as a result of the sharing of documents, materials, or other
32 information under this subsection.

33 (4) The commissioner may open the proceedings or hearings or make
34 public the notices, correspondence, reports, records, or other
35 information if the commissioner deems that it is in the best interest
36 of the public or in the best interest of the insurer or its insureds,
37 creditors, or the general public. However, the determination of

1 whether to disclose any confidential information at the public
2 proceedings or hearings is subject to applicable law.

3 (5) This section does not apply to hearings, notices,
4 correspondence, reports, records, or other information obtained upon
5 the appointment of a receiver for the insurer by a court of competent
6 jurisdiction.

7 **Sec. 6.** RCW 42.56.250 and 2005 c 274 s 405 are each amended to
8 read as follows:

9 The following employment and licensing information is exempt from
10 public inspection and copying under this chapter:

11 (1) Test questions, scoring keys, and other examination data used
12 to administer a license, employment, or academic examination;

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

16 (3) The residential addresses ~~((or))~~, residential telephone
17 numbers, personal wireless telephone numbers, personal electronic mail
18 addresses, social security numbers, and emergency contact information
19 of employees or volunteers of a public agency, and the names, dates of
20 birth, residential addresses, residential telephone numbers, personal
21 wireless telephone numbers, personal electronic mail addresses, social
22 security numbers, and emergency contact information of dependents of
23 employees or volunteers of a public agency that are held by any public
24 agency in personnel records, public employment related records, or
25 volunteer rosters, or are included in any mailing list of employees or
26 volunteers of any public agency. For purposes of this subsection,
27 "employees" includes independent provider home care workers as defined
28 in RCW 74.39A.240;

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

35 (5) Investigative records compiled by an employing agency
36 conducting a current investigation of a possible unfair practice under

1 chapter 49.60 RCW or of a possible violation of other federal, state,
2 or local laws prohibiting discrimination in employment; and

3 (6) Except as provided in RCW 47.64.220, salary and employee
4 benefit information collected under RCW 47.64.220(1) and described in
5 RCW 47.64.220(2).

6 **Sec. 7.** RCW 42.56.270 and 2005 c 274 s 407 are each amended to
7 read as follows:

8 The following financial, commercial, and proprietary information is
9 exempt from disclosure under this chapter:

10 (1) Valuable formulae, designs, drawings, computer source code or
11 object code, and research data obtained by any agency within five years
12 of the request for disclosure when disclosure would produce private
13 gain and public loss;

14 (2) Financial information supplied by or on behalf of a person,
15 firm, or corporation for the purpose of qualifying to submit a bid or
16 proposal for (a) a ferry system construction or repair contract as
17 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
18 or improvement as required by RCW 47.28.070;

19 (3) Financial and commercial information and records supplied by
20 private persons pertaining to export services provided under chapters
21 43.163 and 53.31 RCW, and by persons pertaining to export projects
22 under RCW 43.23.035;

23 (4) Financial and commercial information and records supplied by
24 businesses or individuals during application for loans or program
25 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
26 or during application for economic development loans or program
27 services provided by any local agency;

28 (5) Financial information, business plans, examination reports, and
29 any information produced or obtained in evaluating or examining a
30 business and industrial development corporation organized or seeking
31 certification under chapter 31.24 RCW;

32 (6) Financial and commercial information supplied to the state
33 investment board by any person when the information relates to the
34 investment of public trust or retirement funds and when disclosure
35 would result in loss to such funds or in private loss to the providers
36 of this information;

37 (7) Financial and valuable trade information under RCW 51.36.120;

1 (8) 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 (9) Financial and commercial information requested by the public
6 stadium authority from any person or organization that leases or uses
7 the stadium and exhibition center as defined in RCW 36.102.010;

8 (10) Financial information, including but not limited to account
9 numbers and values, and other identification numbers supplied by or on
10 behalf of a person, firm, corporation, limited liability company,
11 partnership, or other entity related to an application for a horse
12 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
13 license, gambling license, or lottery retail license;

14 (11) Proprietary data, trade secrets, or other information that
15 relates to: (a) A vendor's unique methods of conducting business; (b)
16 data unique to the product or services of the vendor; or (c)
17 determining prices or rates to be charged for services, submitted by
18 any vendor to the department of social and health services for purposes
19 of the development, acquisition, or implementation of state purchased
20 health care as defined in RCW 41.05.011; (~~and~~)

21 (12)(a) When supplied to and in the records of the department of
22 community, trade, and economic development:

23 (i) Financial and proprietary information collected from any person
24 and provided to the department of community, trade, and economic
25 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

26 (ii) Financial or proprietary information collected from any person
27 and provided to the department of community, trade, and economic
28 development or the office of the governor in connection with the
29 siting, recruitment, expansion, retention, or relocation of that
30 person's business and until a siting decision is made, identifying
31 information of any person supplying information under this subsection
32 and the locations being considered for siting, relocation, or expansion
33 of a business;

34 (b) When developed by the department of community, trade, and
35 economic development based on information as described in (a)(i) of
36 this subsection, any work product is not exempt from disclosure;

37 (c) For the purposes of this subsection, "siting decision" means
38 the decision to acquire or not to acquire a site;

1 (d) If there is no written contact for a period of sixty days to
2 the department of community, trade, and economic development from a
3 person connected with siting, recruitment, expansion, retention, or
4 relocation of that person's business, information described in (a)(ii)
5 of this subsection will be available to the public under this chapter;
6 and

7 (13) Financial, commercial, operations, and technical and research
8 information and data submitted to or obtained by the life sciences
9 discovery fund authority in applications for, or delivery of, grants
10 under chapter 43.350 RCW, to the extent that such information, if
11 revealed, would reasonably be expected to result in private loss to the
12 providers of this information.

13 **Sec. 8.** RCW 42.56.330 and 2005 c 274 s 413 are each amended to
14 read as follows:

15 The following information relating to public utilities and
16 transportation is exempt from disclosure under this chapter:

17 (1) Records filed with the utilities and transportation commission
18 or attorney general under RCW 80.04.095 that a court has determined are
19 confidential under RCW 80.04.095;

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

27 (3) The names, residential addresses, residential telephone
28 numbers, and other individually identifiable records held by an agency
29 in relation to a vanpool, carpool, or other ride-sharing program or
30 service; however, these records may be disclosed to other persons who
31 apply for ride-matching services and who need that information in order
32 to identify potential riders or drivers with whom to share rides;

33 (4) The personally identifying information of current or former
34 participants or applicants in a paratransit or other transit service
35 operated for the benefit of persons with disabilities or elderly
36 persons;

1 (5) The personally identifying information of persons who acquire
2 and use transit passes and other fare payment media including, but not
3 limited to, stored value smart cards and magnetic strip cards, except
4 that an agency may disclose this information to a person, employer,
5 educational institution, or other entity that is responsible, in whole
6 or in part, for payment of the cost of acquiring or using a transit
7 pass or other fare payment media, or to the news media when reporting
8 on public transportation or public safety. This information may also
9 be disclosed at the agency's discretion to governmental agencies or
10 groups concerned with public transportation or public safety;

11 (6) Records of any person that belong to a public utility district
12 or a municipally owned electrical utility, unless the law enforcement
13 authority provides the public utility district or municipally owned
14 electrical utility with a written statement in which the authority
15 states that it suspects that the particular person to whom the records
16 pertain has committed a crime and the authority has a reasonable belief
17 that the records could determine or help determine whether the
18 suspicion might be true. Information obtained in violation of this
19 subsection is inadmissible in any criminal proceeding; (~~and~~)

20 (7) Any information obtained by governmental agencies that is
21 collected by the use of a motor carrier intelligent transportation
22 system or any comparable information equipment attached to a truck,
23 tractor, or trailer; however, the information may be given to other
24 governmental agencies or the owners of the truck, tractor, or trailer
25 from which the information is obtained. As used in this subsection,
26 "motor carrier" has the same definition as provided in RCW 81.80.010;
27 and

28 (8) The personally identifying information of persons who acquire
29 and use transponders or other technology to facilitate payment of
30 tolls. This information may be disclosed in aggregate form as long as
31 the data does not contain any personally identifying information. For
32 these purposes aggregate data may include the census tract of the
33 account holder as long as any individual personally identifying
34 information is not released. Personally identifying information may be
35 released to law enforcement agencies only for toll enforcement
36 purposes. Personally identifying information may be released to law
37 enforcement agencies for other purposes only if the request is
38 accompanied by a court order.

1 **Sec. 9.** RCW 42.56.360 and 2005 c 274 s 416 are each amended to
2 read as follows:

3 (1) The following health care information is exempt from disclosure
4 under this chapter:

5 (a) Information obtained by the board of pharmacy as provided in
6 RCW 69.45.090;

7 (b) Information obtained by the board of pharmacy or the department
8 of health and its representatives as provided in RCW 69.41.044,
9 69.41.280, and 18.64.420;

10 (c) Information and documents created specifically for, and
11 collected and maintained by a quality improvement committee under RCW
12 43.70.510 or 70.41.200, or by a peer review committee under RCW
13 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640
14 or 18.20.390, regardless of which agency is in possession of the
15 information and documents;

16 (d)(i) Proprietary financial and commercial information that the
17 submitting entity, with review by the department of health,
18 specifically identifies at the time it is submitted and that is
19 provided to or obtained by the department of health in connection with
20 an application for, or the supervision of, an antitrust exemption
21 sought by the submitting entity under RCW 43.72.310;

22 (ii) If a request for such information is received, the submitting
23 entity must be notified of the request. Within ten business days of
24 receipt of the notice, the submitting entity shall provide a written
25 statement of the continuing need for confidentiality, which shall be
26 provided to the requester. Upon receipt of such notice, the department
27 of health shall continue to treat information designated under this
28 subsection (1)(d) as exempt from disclosure;

29 (iii) If the requester initiates an action to compel disclosure
30 under this chapter, the submitting entity must be joined as a party to
31 demonstrate the continuing need for confidentiality;

32 (e) Records of the entity obtained in an action under RCW 18.71.300
33 through 18.71.340;

34 (f) Except for published statistical compilations and reports
35 relating to the infant mortality review studies that do not identify
36 individual cases and sources of information, any records or documents
37 obtained, prepared, or maintained by the local health department for

1 the purposes of an infant mortality review conducted by the department
2 of health under RCW 70.05.170; and

3 (g) Complaints filed under chapter 18.130 RCW after July 27, 1997,
4 to the extent provided in RCW 18.130.095(1).

5 (2) Chapter 70.02 RCW applies to public inspection and copying of
6 health care information of patients.

7 **Sec. 10.** RCW 74.15.310 and 2005 c 473 s 3 are each amended to read
8 as follows:

9 (1) The department shall establish and maintain a toll-free
10 telephone number, and an interactive web-based system through which
11 persons may obtain information regarding child day-care centers and
12 family day-care providers. This number shall be available twenty-four
13 hours a day for persons to request information. The department shall
14 respond to recorded messages left at the number within two business
15 days. The number shall be published in reasonably available printed
16 and electronic media. The number shall be easily identifiable as a
17 number through which persons may obtain information regarding child
18 day-care centers and family day-care providers as set forth in this
19 section.

20 (2) Through the toll-free telephone line established by this
21 section, the department shall provide information to callers about:

- 22 (a) Whether a day-care provider is licensed;
- 23 (b) whether a day-care provider's license is current;
- 24 (c) the general nature of any enforcement against the providers;
- 25 (d) how to report suspected or observed noncompliance with licensing requirements;
- 26 (e) how to report alleged abuse or neglect in a day care;
- 27 (f) how to report health, safety, and welfare concerns in a day care;
- 28 (g) how to receive follow-up assistance, including information on the office of the family and
- 29 children's ombudsman; and
- 30 (h) how to receive referral information on other agencies or entities that may be of further assistance to the
- 31 caller.

32 (3) Beginning in January 2006, the department shall print the toll-
33 free number established by this section on the face of new licenses
34 issued to child day-care centers and family day-care providers.

35 (4) This section shall not be construed to require the disclosure
36 of any information that is exempt from public disclosure under chapter
37 (~~42.17~~) 42.56 RCW.

1 **Sec. 11.** RCW 74.15.320 and 2005 c 473 s 4 are each amended to read
2 as follows:

3 (1) Every child day-care center and family day-care provider shall
4 prominently post the following items, clearly visible to parents and
5 staff:

6 (a) The license issued under this chapter;

7 (b) The department's toll-free telephone number established by RCW
8 74.15.310;

9 (c) The notice of any pending enforcement action. The notice must
10 be posted immediately upon receipt. The notice must be posted for at
11 least two weeks or until the violation causing the enforcement action
12 is corrected, whichever is longer;

13 (d) A notice that inspection reports and any notices of enforcement
14 actions for the previous three years are available from the licensee
15 and the department; and

16 (e) Any other information required by the department.

17 (2) The department shall disclose, upon request, the receipt,
18 general nature, and resolution or current status of all complaints on
19 record with the department after July 24, 2005, against a child day-
20 care center or family day-care provider that result in an enforcement
21 action.

22 This section shall not be construed to require the disclosure of
23 any information that is exempt from public disclosure under chapter
24 ((42.17)) 42.56 RCW.

25 **Sec. 12.** RCW 74.15.330 and 2005 c 473 s 5 are each amended to read
26 as follows:

27 (1) Every child day-care center and family day-care provider shall
28 have readily available for review by the department, parents, and the
29 public a copy of each inspection report and notice of enforcement
30 action received by the center or provider from the department for the
31 past three years. This subsection only applies to reports and notices
32 received on or after July 24, 2005.

33 (2) The department shall make available to the public during
34 business hours all inspection reports and notices of enforcement
35 actions involving child day-care centers and family day-care providers
36 consistent with chapter ((42.17)) 42.56 RCW. The department shall

1 include in the inspection report a statement of the corrective measures
2 taken by the center or provider.

3 **Sec. 13.** RCW 74.42.640 and 2005 c 33 s 3 are each amended to read
4 as follows:

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

9 (a) The director of nursing services;

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

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

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

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

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

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

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

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

34 (6) If the facility offers the department documents generated by,
35 or for, the quality assurance committee as evidence of compliance with
36 nursing facility requirements, the documents are protected as quality
37 assurance committee documents under subsections (7) and (9) of this

1 section when in the possession of the department. The department is
2 not liable for an inadvertent disclosure, a disclosure related to a
3 required federal or state audit, or disclosure of documents incorrectly
4 marked as quality assurance committee documents by the facility.

5 (7) Information and documents, including the analysis of complaints
6 and incident reports, created specifically for, and collected and
7 maintained by, a quality assurance committee are not subject to
8 discovery or introduction into evidence in any civil action, and no
9 person who was in attendance at a meeting of such committee or who
10 participated in the creation, collection, or maintenance of information
11 or documents specifically for the committee shall be permitted or
12 required to testify in any civil action as to the content of such
13 proceedings or the documents and information prepared specifically for
14 the committee. This subsection does not preclude: (a) In any civil
15 action, the discovery of the identity of persons involved in the care
16 that is the basis of the civil action whose involvement was independent
17 of any quality improvement committee activity; and (b) in any civil
18 action, the testimony of any person concerning the facts which form the
19 basis for the institution of such proceedings of which the person had
20 personal knowledge acquired independently of their participation in the
21 quality assurance committee activities.

22 (8) A quality assurance committee under subsection (1) of this
23 section, RCW 18.20.390, 70.41.200, 4.24.250, or 43.70.510 may share
24 information and documents, including the analysis of complaints and
25 incident reports, created specifically for, and collected and
26 maintained by, the committee, with one or more other quality assurance
27 committees created under subsection (1) of this section, RCW 18.20.390,
28 70.41.200, 4.24.250, or 43.70.510 for the improvement of the quality of
29 care and services rendered to nursing facility residents. Information
30 and documents disclosed by one quality assurance committee to another
31 quality assurance committee and any information and documents created
32 or maintained as a result of the sharing of information and documents
33 shall not be subject to the discovery process and confidentiality shall
34 be respected as required by subsections (7) and (9) of this section,
35 RCW 18.20.390 (6) and (8), 43.70.510(4), 70.41.200(3), and 4.24.250(1).
36 The privacy protections of chapter 70.02 RCW and the federal health
37 insurance portability and accountability act of 1996 and its
38 implementing regulations apply to the sharing of individually

1 identifiable patient information held by a coordinated quality
2 improvement program. Any rules necessary to implement this section
3 shall meet the requirements of applicable federal and state privacy
4 laws.

5 (9) Information and documents, including the analysis of complaints
6 and incident reports, created specifically for, and collected and
7 maintained by, a quality assurance committee are exempt from disclosure
8 under chapter (~~(42.17)~~) 42.56 RCW.

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

15 (11) A facility operated as part of a hospital licensed under
16 chapter 70.41 RCW may maintain a quality assurance committee in
17 accordance with this section which shall be subject to the provisions
18 of subsections (1) through (10) of this section or may conduct quality
19 improvement activities for the facility through a quality improvement
20 committee under RCW 70.41.200 which shall be subject to the provisions
21 of RCW 70.41.200(9).

22 **Sec. 14.** RCW 90.64.190 and 2005 c 510 s 4 are each amended to read
23 as follows:

24 This section applies to dairies, AFOs, and CAFOs, not required to
25 apply for a permit. Information in plans, records, and reports
26 obtained by state and local agencies from livestock producers under
27 chapter 510, Laws of 2005 regarding (1) number of animals; (2) volume
28 of livestock nutrients generated; (3) number of acres covered by the
29 plan or used for land application of livestock nutrients; (4) livestock
30 nutrients transferred to other persons; and (5) crop yields shall be
31 disclosable in response to a request for public records under chapter
32 (~~(42.17)~~) 42.56 RCW only in ranges that provide meaningful information
33 to the public while ensuring confidentiality of business information.
34 The department of agriculture shall adopt rules to implement this
35 section in consultation with affected state and local agencies.

1 NEW SECTION. **Sec. 15.** A new section is added to chapter 42.56 RCW
2 to read as follows:

3 Records of mediation communications that are privileged under
4 chapter 7.07 RCW are exempt from disclosure under this chapter.

5 NEW SECTION. **Sec. 16.** The following sections are each recodified
6 as new sections in chapter 42.56 RCW:

7 RCW 42.17.253;

8 RCW 42.17.31922;

9 RCW 42.17.31923.

10 NEW SECTION. **Sec. 17.** This act takes effect July 1, 2006.

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