
HOUSE BILL 1414

State of Washington 60th Legislature 2007 Regular Session

By Representatives Cody, Green, Morrell, Moeller, Schual-Berke and Campbell

Read first time 01/18/2007. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to licensing ambulatory surgical facilities;
2 amending RCW 70.56.010, 18.130.070, 18.71.0195, 70.170.010, 70.170.020,
3 70.170.060, and 70.170.080; reenacting and amending RCW 43.70.510,
4 70.41.200, and 42.56.360; adding a new chapter to Title 70 RCW; and
5 prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Ambulatory surgical facility" means any distinct entity that
10 operates for the primary purpose of providing specialty or
11 multispecialty outpatient surgical services in which patients are
12 admitted to and discharged from the facility within the same working
13 day and do not require overnight hospitalization, whether or not the
14 facility is certified under Title XVIII of the federal social security
15 act.

16 (2) "Department" means the department of health.

17 (3) "Person" means an individual, firm, partnership, corporation,
18 company, association, joint stock association, and the legal successor
19 thereof.

1 (4) "Secretary" means the secretary of health.

2 (5) "Surgical services" means invasive medical procedures that:

3 (a) Utilize a knife, laser, cautery, cryogenics, or chemicals; and

4 (b) Remove, correct, or facilitate the diagnosis or cure of a
5 disease, process, or injury through that branch of medicine that treats
6 diseases, injuries, and deformities by manual or operative methods by
7 a licensed health care provider.

8 NEW SECTION. **Sec. 2.** The secretary shall:

9 (1) Issue a license to any ambulatory surgical facility that:

10 (a) Submits payment of the fee established in section 7 of this
11 act;

12 (b) Submits a completed application that demonstrates the ability
13 to comply with the standards established for operating and maintaining
14 an ambulatory surgical facility in statute and rule; and

15 (c) Successfully completes the survey requirements established in
16 section 11 of this act;

17 (2) Develop an application form for applicants for a license to
18 operate an ambulatory surgical facility;

19 (3) Initiate investigations and enforcement actions for complaints
20 or other information regarding failure to comply with this chapter or
21 the standards and rules adopted under this chapter;

22 (4) Conduct surveys of facilities, including reviews of medical
23 records and documents required to be maintained under this chapter or
24 standards and rules adopted under this chapter;

25 (5) Determine which accreditation organizations have substantially
26 equivalent standards for purposes of deeming specific licensing
27 requirements required in statute and rule as having met the state's
28 standards; and

29 (6) Adopt any rules necessary to implement this chapter.

30 NEW SECTION. **Sec. 3.** After June 30, 2008, no person or
31 governmental unit of the state of Washington, acting separately or
32 jointly with any other person or governmental unit, shall establish,
33 maintain, or conduct an ambulatory surgical facility in this state or
34 advertise by using the term "ambulatory surgical facility," "day
35 surgery center," "licensed surgical center," or other words conveying

1 similar meaning without a license issued by the department under this
2 chapter.

3 NEW SECTION. **Sec. 4.** Nothing in this chapter:

4 (1) Applies to an ambulatory surgical facility that is maintained
5 and operated by a hospital licensed under chapter 70.41 RCW;

6 (2) Applies to an office maintained for the practice of dentistry;

7 (3) Applies to the individual or group practice offices of private
8 physicians unless the offices have a distinct part used solely for
9 outpatient surgical services on a regular and organized basis; or

10 (4) Limits an ambulatory surgical facility to performing only
11 surgical services.

12 NEW SECTION. **Sec. 5.** (1) An applicant for a license to operate an
13 ambulatory surgical facility must demonstrate the ability to comply
14 with the standards established for operating and maintaining an
15 ambulatory surgical facility in statute and rule, including:

16 (a) Submitting a written application to the department providing
17 all necessary information on a form provided by the department,
18 including a list of surgical specialties offered;

19 (b) Submitting building plans for review and approval by the
20 department for new construction, alterations other than minor
21 alterations, and additions to existing facilities, prior to obtaining
22 a license and occupying the building;

23 (c) Demonstrating the ability to comply with this chapter and any
24 rules adopted under this chapter;

25 (d) Cooperating with the department during on-site surveys prior to
26 obtaining an initial license or renewing an existing license;

27 (e) Providing such proof as the department may require concerning
28 the ownership and management of the ambulatory surgical facility,
29 including information about the organization and governance of the
30 facility and the identity of the applicant, officers, directors,
31 partners, managing employees, or owners of ten percent or more of the
32 applicant's assets;

33 (f) Submitting proof of operation of a coordinated quality
34 improvement plan in accordance with section 9 of this act;

35 (g) Submitting a copy of the facility safety and emergency training
36 program established under section 6 of this act;

1 (h) Paying any fees established under section 7 of this act; and
2 (i) Providing any other information that the department may
3 reasonably require.

4 (2) A license is valid for three years, after which an ambulatory
5 surgical facility must submit an application for renewal of license
6 upon forms provided by the department and the renewal fee as
7 established in section 7 of this act. The applicant must demonstrate
8 the ability to comply with the standards established for operating and
9 maintaining an ambulatory surgical facility in statutes, standards, and
10 rules. The applicant must submit the license renewal document no later
11 than thirty days prior to the date of expiration of the license.

12 (3) The applicant may demonstrate compliance with any of the
13 requirements of subsection (1) of this section by providing
14 satisfactory documentation to the secretary that it has met the
15 standards of an accreditation organization or federal agency that the
16 secretary has determined to have substantially equivalent standards as
17 the statutes and rules of this state.

18 NEW SECTION. **Sec. 6.** An ambulatory surgical facility shall have
19 a facility safety and emergency training program. The program shall
20 include:

21 (1) On-site equipment, medication, and trained personnel to
22 facilitate handling of services sought or provided and to facilitate
23 the management of any medical emergency that may arise in connection
24 with services sought or provided;

25 (2) Written transfer agreements with local hospitals licensed under
26 chapter 70.41 RCW, approved by the ambulatory surgical facility's
27 medical staff; and

28 (3) A procedural plan for handling medical emergencies that shall
29 be available for review during surveys and inspections.

30 NEW SECTION. **Sec. 7.** The secretary shall charge a fee to
31 applicants for a license and renewal license as an ambulatory surgical
32 facility. The fees charged shall be based on, but shall not exceed,
33 the cost to the department for the license and enforcement activities
34 authorized by this chapter. The fees shall be established in
35 accordance with RCW 43.70.110 and 43.70.250.

1 NEW SECTION. **Sec. 8.** (1) The secretary may deny, suspend, or
2 revoke the license of any ambulatory surgical facility in any case in
3 which he or she finds the applicant or registered entity knowingly made
4 a false statement of material fact in the application for the license
5 or any supporting data in any record required by this chapter or matter
6 under investigation by the department.

7 (2) The secretary shall investigate complaints concerning operation
8 of an ambulatory surgical facility without a license. The secretary
9 may issue a notice of intention to issue a cease and desist order to
10 any person whom the secretary has reason to believe is engaged in the
11 unlicensed operation of an ambulatory surgical facility. If the
12 secretary makes a written finding of fact that the public interest will
13 be irreparably harmed by delay in issuing an order, the secretary may
14 issue a temporary cease and desist order. The person receiving a
15 temporary cease and desist order shall be provided an opportunity for
16 a prompt hearing. The temporary cease and desist order shall remain in
17 effect until further order of the secretary. Any person operating an
18 ambulatory surgical facility under this chapter without a license is
19 guilty of a misdemeanor, and each day of operation of an unlicensed
20 ambulatory surgical facility constitutes a separate offense.

21 (3) The secretary is authorized to deny, suspend, revoke, or modify
22 a license or provisional license in any case in which it finds that
23 there has been a failure or refusal to comply with the requirements of
24 this chapter or the standards or rules adopted under this chapter. RCW
25 43.70.115 governs notice of a license denial, revocation, suspension,
26 or modification and provides the right to an adjudicative proceeding.

27 (4) Pursuant to chapter 34.05 RCW, the secretary may assess
28 monetary penalties of a civil nature not to exceed one thousand dollars
29 per violation.

30 NEW SECTION. **Sec. 9.** (1) Every ambulatory surgical facility shall
31 maintain a coordinated quality improvement program for the improvement
32 of the quality of health care services rendered to patients and the
33 identification and prevention of medical malpractice. The program
34 shall include at least the following:

35 (a) The establishment of a quality improvement committee with the
36 responsibility to review the services rendered in the ambulatory
37 surgical facility, both retrospectively and prospectively, in order to

1 improve the quality of medical care of patients and to prevent medical
2 malpractice. The committee shall oversee and coordinate the quality
3 improvement and medical malpractice prevention program and shall ensure
4 that information gathered pursuant to the program is used to review and
5 to revise the policies and procedures of the ambulatory surgical
6 facility;

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

11 (c) The periodic review of the credentials, physical and mental
12 capacity, and competence in delivering health care services of all
13 persons who are employed or associated with the ambulatory surgical
14 facility;

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

18 (e) The maintenance and continuous collection of information
19 concerning the ambulatory surgical facility's experience with negative
20 health care outcomes and incidents injurious to patients, patient
21 grievances, professional liability premiums, settlements, awards, costs
22 incurred by the hospital for patient injury prevention, and safety
23 improvement activities;

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

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

33 (h) Policies to ensure compliance with the reporting requirements
34 of this section.

35 (2) Any person who, in substantial good faith, provides information
36 to further the purposes of the quality improvement and medical
37 malpractice prevention program or who, in substantial good faith,
38 participates on the quality improvement committee is not subject to an

1 action for civil damages or other relief as a result of such activity.
2 Any person or entity participating in a coordinated quality improvement
3 program that, in substantial good faith, shares information or
4 documents with one or more other programs, committees, or boards under
5 subsection (8) of this section is not subject to an action for civil
6 damages or other relief as a result of the activity. For the purposes
7 of this section, sharing information is presumed to be in substantial
8 good faith. However, the presumption may be rebutted upon a showing of
9 clear, cogent, and convincing evidence that the information shared was
10 knowingly false or deliberately misleading.

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

1 (4) Each quality improvement committee shall, on at least a
2 semiannual basis, report to the management of the ambulatory surgical
3 facility, as identified in the facility's application, in which the
4 committee is located. The report shall review the quality improvement
5 activities conducted by the committee, and any actions taken as a
6 result of those activities.

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

9 (6) The medical quality assurance commission or the board of
10 osteopathic medicine and surgery, as appropriate, may review and audit
11 the records of committee decisions in which a physician's privileges
12 are terminated or restricted. Each ambulatory surgical facility shall
13 produce and make accessible to the commission or board the appropriate
14 records and otherwise facilitate the review and audit. Information so
15 gained is not subject to the discovery process and confidentiality
16 shall be respected as required by subsection (3) of this section.
17 Failure of an ambulatory surgical facility to comply with this
18 subsection is punishable by a civil penalty not to exceed two hundred
19 fifty dollars.

20 (7) The department, the joint commission on accreditation of health
21 care organizations, and any other accrediting organization may review
22 and audit the records of a quality improvement committee or peer review
23 committee in connection with their inspection and review of the
24 ambulatory surgical facility. Information so obtained is not subject
25 to the discovery process, and confidentiality shall be respected as
26 required by subsection (3) of this section. Each ambulatory surgical
27 facility shall produce and make accessible to the department the
28 appropriate records and otherwise facilitate the review and audit.

29 (8) A coordinated quality improvement program may share information
30 and documents, including complaints and incident reports, created
31 specifically for, and collected and maintained by, a quality
32 improvement committee or a peer review committee under RCW 4.24.250
33 with one or more other coordinated quality improvement programs
34 maintained in accordance with this section or RCW 43.70.510 or
35 70.41.200, a quality assurance committee maintained in accordance with
36 RCW 18.20.390 or 74.42.640, or a peer review committee under RCW
37 4.24.250, for the improvement of the quality of health care services
38 rendered to patients and the identification and prevention of medical

1 malpractice. The privacy protections of chapter 70.02 RCW and the
2 federal health insurance portability and accountability act of 1996 and
3 its implementing regulations apply to the sharing of individually
4 identifiable patient information held by a coordinated quality
5 improvement program. Any rules necessary to implement this section
6 shall meet the requirements of applicable federal and state privacy
7 laws. Information and documents disclosed by one coordinated quality
8 improvement program to another coordinated quality improvement program
9 or a peer review committee under RCW 4.24.250 and any information and
10 documents created or maintained as a result of the sharing of
11 information and documents are not subject to the discovery process and
12 confidentiality shall be respected as required by subsection (3) of
13 this section, RCW 18.20.390 (6) and (8), 70.41.200(3), 74.42.640 (7)
14 and (9), and 4.24.250.

15 (9) Violation of this section shall not be considered negligence
16 per se.

17 NEW SECTION. **Sec. 10.** The department shall establish and adopt
18 such minimum standards and rules pertaining to the construction,
19 maintenance, and operation of ambulatory surgical facilities and
20 rescind, amend, or modify such rules, as are necessary in the public
21 interest, and particularly for the establishment and maintenance of
22 standards of patient care required for the safe and adequate care and
23 treatment of patients. In establishing the format and content of these
24 standards and rules, the department shall give consideration to
25 maintaining consistency with such minimum standards and rules
26 applicable to ambulatory surgical facilities in the survey standards of
27 accrediting organizations or federal agencies that the secretary has
28 determined to have substantially equivalent standards as the statutes
29 and rules of this state.

30 NEW SECTION. **Sec. 11.** (1) The department shall make or cause to
31 be made a survey of all ambulatory surgical facilities on average at
32 least every eighteen months. Every survey of an ambulatory surgical
33 facility may include an inspection of every part of the premises. The
34 department may make an examination of all phases of the ambulatory
35 surgical facility operation necessary to determine compliance with all
36 applicable statutes, rules, and regulations.

1 (2) The department shall determine which accrediting organizations
2 have substantially equivalent survey standards to department standards
3 for the purpose of meeting the requirements of subsection (1) of this
4 section. A survey by an approved accrediting organization may
5 substitute for a survey by the department if:

6 (a) The ambulatory surgical facility has satisfactorily completed
7 a survey by the department in the previous eighteen months; and

8 (b) Within thirty days of learning the result of a survey, the
9 ambulatory surgical facility provides the department with documentary
10 evidence that the ambulatory surgical facility has been certified as a
11 result of a survey by an approved accrediting organization and the date
12 of the survey.

13 (3) Ambulatory surgical facilities shall make the written reports
14 of surveys conducted by an approved accrediting organization available
15 to department surveyors during department surveys, upon request.

16 (4) Any license holder or applicant desiring to make alterations or
17 additions to its facilities or to construct new facilities shall,
18 before commencing such alteration, addition, or new construction,
19 comply with the rules prescribed by the department.

20 NEW SECTION. **Sec. 12.** (1) The chief administrator or executive
21 officer of an ambulatory surgical facility shall report to the
22 department when the practice of a health care provider licensed by a
23 disciplining authority under RCW 18.130.040 is restricted, suspended,
24 limited, or terminated based upon a conviction, determination, or
25 finding by the ambulatory surgical facility that the provider has
26 committed an action defined as unprofessional conduct under RCW
27 18.130.180. The chief administrator or executive officer shall also
28 report any voluntary restriction or termination of the practice of a
29 health care provider licensed by a disciplining authority under RCW
30 18.130.040 while the provider is under investigation or the subject of
31 a proceeding by the ambulatory surgical facility regarding
32 unprofessional conduct, or in return for the ambulatory surgical
33 facility not conducting such an investigation or proceeding or not
34 taking action. The department shall forward the report to the
35 appropriate disciplining authority.

36 (2) Reports made under subsection (1) of this section must be made
37 within fifteen days of the date of: (a) A conviction, determination,

1 or finding by the ambulatory surgical facility that the health care
2 practitioner has committed an action defined as unprofessional conduct
3 under RCW 18.130.180; or (b) acceptance by the ambulatory surgical
4 facility of the voluntary restriction or termination of the practice of
5 a health care practitioner, including his or her voluntary resignation,
6 while under investigation or the subject of proceedings regarding
7 unprofessional conduct under RCW 18.130.180.

8 (3) Failure of an ambulatory surgical facility to comply with this
9 section is punishable by a civil penalty not to exceed two hundred
10 fifty dollars.

11 (4) An ambulatory surgical facility, its chief administrator, or
12 its executive officer who files a report under this section is immune
13 from suit, whether direct or derivative, in any civil action related to
14 the filing or contents of the report, unless the conviction,
15 determination, or finding on which the report and its content are based
16 is proven to not have been made in good faith. The prevailing party in
17 any action brought alleging that the conviction, determination,
18 finding, or report was not made in good faith is entitled to recover
19 the costs of litigation, including reasonable attorneys' fees.

20 (5) The department shall forward reports made under subsection (1)
21 of this section to the appropriate disciplining authority designated
22 under Title 18 RCW within fifteen days of the date the report is
23 received by the department. The department shall notify an ambulatory
24 surgical facility that has made a report under subsection (1) of this
25 section of the results of the disciplining authority's case disposition
26 decision within fifteen days after the case disposition. Case
27 disposition is the decision whether to issue a statement of charges,
28 take informal action, or close the complaint without action against a
29 practitioner. In its biennial report to the legislature under RCW
30 18.130.310, the department shall specifically identify the case
31 dispositions of reports made by ambulatory surgical facilities under
32 subsection (1) of this section.

33 NEW SECTION. **Sec. 13.** Each ambulatory surgical facility shall
34 keep written records of decisions to restrict or terminate privileges
35 of practitioners. Copies of such records shall be made available to
36 the board within thirty days of a request and all information so gained
37 remains confidential in accordance with sections 9 and 12 of this act

1 and is protected from the discovery process. Failure of a hospital to
2 comply with this section is punishable by a civil penalty not to exceed
3 two hundred fifty dollars.

4 NEW SECTION. **Sec. 14.** (1) Prior to granting or renewing clinical
5 privileges or association of any physician or hiring a physician, an
6 ambulatory surgical facility approved pursuant to this chapter shall
7 request from the physician and the physician shall provide the
8 following information:

9 (a) The name of any hospital, ambulatory surgical facility, or
10 other facility with or at which the physician had or has any
11 association, employment, privileges, or practice;

12 (b) If such association, employment, privilege, or practice was
13 discontinued, the reasons for its discontinuation;

14 (c) Any pending professional medical misconduct proceedings or any
15 pending medical malpractice actions in this state or another state, the
16 substance of the allegations in the proceedings or actions, and any
17 additional information concerning the proceedings or actions as the
18 physician deems appropriate;

19 (d) The substance of the findings in the actions or proceedings and
20 any additional information concerning the actions or proceedings as the
21 physician deems appropriate;

22 (e) A waiver by the physician of any confidentiality provisions
23 concerning the information required to be provided to ambulatory
24 surgical facilities pursuant to this subsection; and

25 (f) A verification by the physician that the information provided
26 by the physician is accurate and complete.

27 (2) Prior to granting privileges or association to any physician or
28 hiring a physician, an ambulatory surgical facility approved under this
29 chapter shall request from any hospital or ambulatory surgical facility
30 with or at which the physician had or has privileges, was associated,
31 or was employed, the following information concerning the physician:

32 (a) Any pending professional medical misconduct proceedings or any
33 pending medical malpractice actions, in this state or another state;

34 (b) Any judgment or settlement of a medical malpractice action and
35 any finding of professional misconduct in this state or another state
36 by a licensing or disciplinary board; and

1 (c) Any information required to be reported by hospitals or
2 ambulatory surgical facilities pursuant to RCW 18.130.070.

3 (3) The medical quality assurance commission shall be advised
4 within thirty days of the name of any physician denied staff
5 privileges, association, or employment on the basis of adverse findings
6 under subsection (1) of this section.

7 (4) A hospital, ambulatory surgical facility, or other facility
8 that receives a request for information from another hospital,
9 ambulatory surgical facility, or other facility pursuant to subsections
10 (1) and (2) of this section shall provide such information concerning
11 the physician in question to the extent such information is known to
12 the hospital, ambulatory surgical facility, or other facility receiving
13 such a request, including the reasons for suspension, termination, or
14 curtailment of employment or privileges at the hospital, ambulatory
15 surgical facility, or facility. A hospital, ambulatory surgical
16 facility, other facility, or other person providing such information in
17 good faith is not liable in any civil action for the release of such
18 information.

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

1 in any civil action, disclosure of the fact that staff privileges were
2 terminated or restricted, including the specific restrictions imposed,
3 if any, and the reasons for the restrictions; or (e) in any civil
4 action, discovery and introduction into evidence of the patient's
5 medical records required by rule of the department to be made regarding
6 the care and treatment received.

7 (6) Ambulatory surgical facilities shall be granted access to
8 information held by the medical quality assurance commission and the
9 board of osteopathic medicine and surgery pertinent to decisions of the
10 hospital regarding credentialing and recredentialing of practitioners.

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

13 NEW SECTION. **Sec. 15.** Ambulatory surgical facilities shall have
14 in place policies to assure that, when appropriate, information about
15 unanticipated outcomes is provided to patients or their families or any
16 surrogate decision makers identified pursuant to RCW 7.70.065.
17 Notifications of unanticipated outcomes under this section do not
18 constitute an acknowledgement or admission of liability, nor may the
19 fact of notification, the content disclosed, or any and all statements,
20 affirmations, gestures, or conduct expressing apology be introduced as
21 evidence in a civil action.

22 NEW SECTION. **Sec. 16.** Every ambulatory surgical facility shall
23 post in conspicuous locations a notice of the department's hospital
24 complaint toll-free telephone number. The form of the notice shall be
25 approved by the department.

26 NEW SECTION. **Sec. 17.** Information received by the department
27 through filed reports, inspection, or as otherwise authorized under
28 this chapter may be disclosed publicly, as permitted under chapter
29 42.56 RCW, subject to the following provisions:

30 (1) Licensing inspections, or complaint investigations regardless
31 of findings, shall, as requested, be disclosed no sooner than three
32 business days after the ambulatory surgical facility has received the
33 resulting assessment report;

34 (2) Information regarding administrative action against the license

1 shall, as requested, be disclosed after the ambulatory surgical
2 facility has received the documents initiating the administrative
3 action;

4 (3) Information about complaints that did not warrant an
5 investigation shall not be disclosed except to notify the ambulatory
6 surgical facility and the complainant that the complaint did not
7 warrant an investigation. If requested, the individual complainant
8 shall receive information on other like complaints that have been
9 reported against the ambulatory surgical facility; and

10 (4) Information disclosed under this section shall not disclose
11 individual names.

12 NEW SECTION. **Sec. 18.** The ambulatory surgical facility account is
13 created in the custody of the state treasurer. All receipts from fees
14 and penalties imposed under this chapter must be deposited into the
15 account. Expenditures from the account may be used only for
16 administration of this chapter. Only the secretary or the secretary's
17 designee may authorize expenditures from the account. The account is
18 subject to allotment procedures under chapter 43.88 RCW, but an
19 appropriation is not required for expenditures.

20 **Sec. 19.** RCW 70.56.010 and 2006 c 8 s 105 are each amended to read
21 as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

24 (1) "Adverse health event" or "adverse event" means the list of
25 serious reportable events adopted by the national quality forum in
26 2002, in its consensus report on serious reportable events in health
27 care. The department shall update the list, through adoption of rules,
28 as subsequent changes are made by the national quality forum. The term
29 does not include an incident.

30 (2) "Ambulatory surgical facility" means (~~any distinct entity that~~
31 ~~operates exclusively for the purpose of providing surgical services to~~
32 ~~patients not requiring hospitalization, whether or not the facility is~~
33 ~~certified under Title XVIII of the federal social security act~~) a
34 facility licensed under chapter 70.-- RCW (sections 1 through 18 of
35 this act).

1 (3) "Childbirth center" means a facility licensed under chapter
2 18.46 RCW.

3 (4) "Correctional medical facility" means a part or unit of a
4 correctional facility operated by the department of corrections under
5 chapter 72.10 RCW that provides medical services for lengths of stay in
6 excess of twenty-four hours to offenders.

7 (5) "Department" means the department of health.

8 (6) "Health care worker" means an employee, independent contractor,
9 licensee, or other individual who is directly involved in the delivery
10 of health services in a medical facility.

11 (7) "Hospital" means a facility licensed under chapter 70.41 RCW.

12 (8) "Incident" means an event, occurrence, or situation involving
13 the clinical care of a patient in a medical facility that:

14 (a) Results in unanticipated injury to a patient that is not
15 related to the natural course of the patient's illness or underlying
16 condition and does not constitute an adverse event; or

17 (b) Could have injured the patient but did not either cause an
18 unanticipated injury or require the delivery of additional health care
19 services to the patient.

20 "Incident" does not include an adverse event.

21 (9) "Independent entity" means that entity that the department of
22 health contracts with under RCW 70.56.040 to receive notifications and
23 reports of adverse events and incidents, and carry out the activities
24 specified in RCW 70.56.040.

25 (10) "Medical facility" means a childbirth center, hospital,
26 psychiatric hospital, or correctional medical facility. An ambulatory
27 surgical facility shall be considered a medical facility for purposes
28 of this chapter upon the effective date of any requirement for state
29 registration or licensure of ambulatory surgical facilities.

30 (11) "Psychiatric hospital" means a hospital facility licensed as
31 a psychiatric hospital under chapter 71.12 RCW.

32 **Sec. 20.** RCW 43.70.510 and 2006 c 8 s 113, 2005 c 291 s 2, 2005 c
33 274 s 302, and 2005 c 33 s 6 are each reenacted and amended to read as
34 follows:

35 (1)(a) Health care institutions and medical facilities, other than
36 hospitals and ambulatory surgical facilities, that are licensed by the
37 department, professional societies or organizations, health care

1 service contractors, health maintenance organizations, health carriers
2 approved pursuant to chapter 48.43 RCW, and any other person or entity
3 providing health care coverage under chapter 48.42 RCW that is subject
4 to the jurisdiction and regulation of any state agency or any
5 subdivision thereof may maintain a coordinated quality improvement
6 program for the improvement of the quality of health care services
7 rendered to patients and the identification and prevention of medical
8 malpractice as set forth in RCW 70.41.200.

9 (b) All such programs shall comply with the requirements of RCW
10 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to
11 reflect the structural organization of the institution, facility,
12 professional societies or organizations, health care service
13 contractors, health maintenance organizations, health carriers, or any
14 other person or entity providing health care coverage under chapter
15 48.42 RCW that is subject to the jurisdiction and regulation of any
16 state agency or any subdivision thereof, unless an alternative quality
17 improvement program substantially equivalent to RCW 70.41.200(1)(a) is
18 developed. All such programs, whether complying with the requirement
19 set forth in RCW 70.41.200(1)(a) or in the form of an alternative
20 program, must be approved by the department before the discovery
21 limitations provided in subsections (3) and (4) of this section and the
22 exemption under RCW 42.56.360(1)(c) and subsection (5) of this section
23 shall apply. In reviewing plans submitted by licensed entities that
24 are associated with physicians' offices, the department shall ensure
25 that the exemption under RCW 42.56.360(1)(c) and the discovery
26 limitations of this section are applied only to information and
27 documents related specifically to quality improvement activities
28 undertaken by the licensed entity.

29 (2) Health care provider groups of five or more providers may
30 maintain a coordinated quality improvement program for the improvement
31 of the quality of health care services rendered to patients and the
32 identification and prevention of medical malpractice as set forth in
33 RCW 70.41.200. For purposes of this section, a health care provider
34 group may be a consortium of providers consisting of five or more
35 providers in total. All such programs shall comply with the
36 requirements of RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h)
37 as modified to reflect the structural organization of the health care
38 provider group. All such programs must be approved by the department

1 before the discovery limitations provided in subsections (3) and (4) of
2 this section and the exemption under RCW 42.56.360(1)(c) and subsection
3 (5) of this section shall apply.

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

19 (4) Information and documents, including complaints and incident
20 reports, created specifically for, and collected and maintained by, a
21 quality improvement committee are not subject to review or disclosure,
22 except as provided in this section, or discovery or introduction into
23 evidence in any civil action, and no person who was in attendance at a
24 meeting of such committee or who participated in the creation,
25 collection, or maintenance of information or documents specifically for
26 the committee shall be permitted or required to testify in any civil
27 action as to the content of such proceedings or the documents and
28 information prepared specifically for the committee. This subsection
29 does not preclude: (a) In any civil action, the discovery of the
30 identity of persons involved in the medical care that is the basis of
31 the civil action whose involvement was independent of any quality
32 improvement activity; (b) in any civil action, the testimony of any
33 person concerning the facts that form the basis for the institution of
34 such proceedings of which the person had personal knowledge acquired
35 independently of such proceedings; (c) in any civil action by a health
36 care provider regarding the restriction or revocation of that
37 individual's clinical or staff privileges, introduction into evidence
38 information collected and maintained by quality improvement committees

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

14 (5) Information and documents created specifically for, and
15 collected and maintained by, a quality improvement committee are exempt
16 from disclosure under chapter 42.56 RCW.

17 (6) A coordinated quality improvement program may share information
18 and documents, including complaints and incident reports, created
19 specifically for, and collected and maintained by, a quality
20 improvement committee or a peer review committee under RCW 4.24.250
21 with one or more other coordinated quality improvement programs
22 maintained in accordance with this section or with RCW 70.41.200, a
23 coordinated quality improvement committee maintained by an ambulatory
24 surgical facility under section 8 of this act, a quality assurance
25 committee maintained in accordance with RCW 18.20.390 or 74.42.640, or
26 a peer review committee under RCW 4.24.250, for the improvement of the
27 quality of health care services rendered to patients and the
28 identification and prevention of medical malpractice. The privacy
29 protections of chapter 70.02 RCW and the federal health insurance
30 portability and accountability act of 1996 and its implementing
31 regulations apply to the sharing of individually identifiable patient
32 information held by a coordinated quality improvement program. Any
33 rules necessary to implement this section shall meet the requirements
34 of applicable federal and state privacy laws. Information and
35 documents disclosed by one coordinated quality improvement program to
36 another coordinated quality improvement program or a peer review
37 committee under RCW 4.24.250 and any information and documents created
38 or maintained as a result of the sharing of information and documents

1 shall not be subject to the discovery process and confidentiality shall
2 be respected as required by subsection (4) of this section and RCW
3 4.24.250.

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

6 **Sec. 21.** RCW 70.41.200 and 2005 c 291 s 3 and 2005 c 33 s 7 are
7 each reenacted and amended to read as follows:

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

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

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

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

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

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

35 (f) The maintenance of relevant and appropriate information
36 gathered pursuant to (a) through (e) of this subsection concerning

1 individual physicians within the physician's personnel or credential
2 file maintained by the hospital;

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

8 (h) Policies to ensure compliance with the reporting requirements
9 of this section.

10 (2) 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 (8) of this section is not subject to an action for
19 civil damages or other relief as a result of the activity. For the
20 purposes of this section, sharing information is presumed to be in
21 substantial good faith. However, the presumption may be rebutted upon
22 a showing of clear, cogent, and convincing evidence that the
23 information shared was knowingly false or deliberately misleading.

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

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

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

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

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

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

1 (8) A coordinated quality improvement program may share information
2 and documents, including complaints and incident reports, created
3 specifically for, and collected and maintained by, a quality
4 improvement committee or a peer review committee under RCW 4.24.250
5 with one or more other coordinated quality improvement programs
6 maintained in accordance with this section or RCW 43.70.510, a
7 coordinated quality improvement committee maintained by an ambulatory
8 surgical facility under section 8 of this act, a quality assurance
9 committee maintained in accordance with RCW 18.20.390 or 74.42.640, or
10 a peer review committee under RCW 4.24.250, for the improvement of the
11 quality of health care services rendered to patients and the
12 identification and prevention of medical malpractice. The privacy
13 protections of chapter 70.02 RCW and the federal health insurance
14 portability and accountability act of 1996 and its implementing
15 regulations apply to the sharing of individually identifiable patient
16 information held by a coordinated quality improvement program. Any
17 rules necessary to implement this section shall meet the requirements
18 of applicable federal and state privacy laws. Information and
19 documents disclosed by one coordinated quality improvement program to
20 another coordinated quality improvement program or a peer review
21 committee under RCW 4.24.250 and any information and documents created
22 or maintained as a result of the sharing of information and documents
23 shall not be subject to the discovery process and confidentiality shall
24 be respected as required by subsection (3) of this section, RCW
25 18.20.390 (6) and (8), 74.42.640 (7) and (9), and 4.24.250.

26 (9) A hospital that operates a nursing home as defined in RCW
27 18.51.010 may conduct quality improvement activities for both the
28 hospital and the nursing home through a quality improvement committee
29 under this section, and such activities shall be subject to the
30 provisions of subsections (2) through (8) of this section.

31 (10) Violation of this section shall not be considered negligence
32 per se.

33 **Sec. 22.** RCW 18.130.070 and 2006 c 99 s 2 are each amended to read
34 as follows:

35 (1)(a) The secretary shall adopt rules requiring every license
36 holder to report to the appropriate disciplining authority any
37 conviction, determination, or finding that another license holder has

1 committed an act which constitutes unprofessional conduct, or to report
2 information to the disciplining authority, an impaired practitioner
3 program, or voluntary substance abuse monitoring program approved by
4 the disciplining authority, which indicates that the other license
5 holder may not be able to practice his or her profession with
6 reasonable skill and safety to consumers as a result of a mental or
7 physical condition.

8 (b) The secretary may adopt rules to require other persons,
9 including corporations, organizations, health care facilities, impaired
10 practitioner programs, or voluntary substance abuse monitoring programs
11 approved by a disciplining authority, and state or local government
12 agencies to report:

13 (i) Any conviction, determination, or finding that a license holder
14 has committed an act which constitutes unprofessional conduct; or

15 (ii) Information to the disciplining authority, an impaired
16 practitioner program, or voluntary substance abuse monitoring program
17 approved by the disciplining authority, which indicates that the
18 license holder may not be able to practice his or her profession with
19 reasonable skill and safety to consumers as a result of a mental or
20 physical condition.

21 (c) If a report has been made by a hospital to the department
22 pursuant to RCW 70.41.210 or by an ambulatory surgical facility
23 pursuant to section 2 of this act, a report to the disciplining
24 authority is not required. To facilitate meeting the intent of this
25 section, the cooperation of agencies of the federal government is
26 requested by reporting any conviction, determination, or finding that
27 a federal employee or contractor regulated by the disciplining
28 authorities enumerated in this chapter has committed an act which
29 constituted unprofessional conduct and reporting any information which
30 indicates that a federal employee or contractor regulated by the
31 disciplining authorities enumerated in this chapter may not be able to
32 practice his or her profession with reasonable skill and safety as a
33 result of a mental or physical condition.

34 (d) Reporting under this section is not required by:

35 (i) Any entity with a peer review committee, quality improvement
36 committee or other similarly designated professional review committee,
37 or by a license holder who is a member of such committee, during the

1 investigative phase of the respective committee's operations if the
2 investigation is completed in a timely manner; or

3 (ii) An impaired practitioner program or voluntary substance abuse
4 monitoring program approved by a disciplining authority under RCW
5 18.130.175 if the license holder is currently enrolled in the treatment
6 program, so long as the license holder actively participates in the
7 treatment program and the license holder's impairment does not
8 constitute a clear and present danger to the public health, safety, or
9 welfare.

10 (2) If a person fails to furnish a required report, the
11 disciplining authority may petition the superior court of the county in
12 which the person resides or is found, and the court shall issue to the
13 person an order to furnish the required report. A failure to obey the
14 order is a contempt of court as provided in chapter 7.21 RCW.

15 (3) A person is immune from civil liability, whether direct or
16 derivative, for providing information to the disciplining authority
17 pursuant to the rules adopted under subsection (1) of this section.

18 (4)(a) The holder of a license subject to the jurisdiction of this
19 chapter shall report to the disciplining authority:

20 (i) Any conviction, determination, or finding that he or she has
21 committed unprofessional conduct or is unable to practice with
22 reasonable skill or safety; and

23 (ii) Any disqualification from participation in the federal
24 medicare program, under Title XVIII of the federal social security act
25 or the federal medicaid program, under Title XIX of the federal social
26 security act.

27 (b) Failure to report within thirty days of notice of the
28 conviction, determination, finding, or disqualification constitutes
29 grounds for disciplinary action.

30 **Sec. 23.** RCW 18.71.0195 and 2005 c 274 s 227 are each amended to
31 read as follows:

32 (1) The contents of any report filed under RCW 18.130.070 shall be
33 confidential and exempt from public disclosure pursuant to chapter
34 42.56 RCW, except that it may be reviewed (a) by the licensee involved
35 or his or her counsel or authorized representative who may submit any
36 additional exculpatory or explanatory statements or other information,

1 which statements or other information shall be included in the file, or
2 (b) by a representative of the commission, or investigator thereof, who
3 has been assigned to review the activities of a licensed physician.

4 Upon a determination that a report is without merit, the
5 commission's records may be purged of information relating to the
6 report.

7 (2) Every individual, medical association, medical society,
8 hospital, ambulatory surgical facility, medical service bureau, health
9 insurance carrier or agent, professional liability insurance carrier,
10 professional standards review organization, agency of the federal,
11 state, or local government, or the entity established by RCW 18.71.300
12 and its officers, agents, and employees are immune from civil
13 liability, whether direct or derivative, for providing information to
14 the commission under RCW 18.130.070, or for which an individual health
15 care provider has immunity under the provisions of RCW 4.24.240,
16 4.24.250, or 4.24.260.

17 **Sec. 24.** RCW 42.56.360 and 2006 c 209 s 9 and 2006 c 8 s 112 are
18 each reenacted and amended to read as follows:

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

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

23 (b) Information obtained by the board of pharmacy or the department
24 of health and its representatives as provided in RCW 69.41.044,
25 69.41.280, and 18.64.420;

26 (c) Information and documents created specifically for, and
27 collected and maintained by a quality improvement committee under RCW
28 43.70.510, section 9 of this act, or 70.41.200, or by a peer review
29 committee under RCW 4.24.250, or by a quality assurance committee
30 pursuant to RCW 74.42.640 or 18.20.390, and notifications or reports of
31 adverse events or incidents made under RCW 70.56.020 or 70.56.040,
32 regardless of which agency is in possession of the information and
33 documents;

34 (d)(i) Proprietary financial and commercial information that the
35 submitting entity, with review by the department of health,
36 specifically identifies at the time it is submitted and that is

1 provided to or obtained by the department of health in connection with
2 an application for, or the supervision of, an antitrust exemption
3 sought by the submitting entity under RCW 43.72.310;

4 (ii) If a request for such information is received, the submitting
5 entity must be notified of the request. Within ten business days of
6 receipt of the notice, the submitting entity shall provide a written
7 statement of the continuing need for confidentiality, which shall be
8 provided to the requester. Upon receipt of such notice, the department
9 of health shall continue to treat information designated under this
10 subsection (1)(d) as exempt from disclosure;

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

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

16 (f) Except for published statistical compilations and reports
17 relating to the infant mortality review studies that do not identify
18 individual cases and sources of information, any records or documents
19 obtained, prepared, or maintained by the local health department for
20 the purposes of an infant mortality review conducted by the department
21 of health under RCW 70.05.170; and

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

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

26 **Sec. 25.** RCW 70.170.010 and 1989 1st ex.s. c 9 s 501 are each
27 amended to read as follows:

28 (1) The legislature finds and declares that there is a need for
29 health care information that helps the general public understand health
30 care issues and how they can be better consumers and that is useful to
31 purchasers, payers, and providers in making health care choices and
32 negotiating payments. It is the purpose and intent of this chapter to
33 establish a hospital data collection, storage, and retrieval system
34 which supports these data needs and which also provides public
35 officials and others engaged in the development of state health policy
36 the information necessary for the analysis of health care issues.

1 (2) The legislature finds that rising health care costs and access
2 to health care services are of vital concern to the people of this
3 state. It is, therefore, essential that strategies be explored that
4 moderate health care costs and promote access to health care services.

5 (3) The legislature further finds that access to health care is
6 among the state's goals and the provision of such care should be among
7 the purposes of health care providers and facilities. Therefore, the
8 legislature intends that charity care requirements and related
9 enforcement provisions for hospitals and ambulatory surgical facilities
10 be explicitly established.

11 (4) The lack of reliable statistical information about the delivery
12 of charity care is a particular concern that should be addressed. It
13 is the purpose and intent of this chapter to require hospitals and
14 ambulatory surgical facilities to provide, and report to the state,
15 charity care to persons with ((~~acute~~)) health care needs, and to have
16 a state agency both monitor and report on the relative commitment of
17 hospitals to the delivery of charity care services, as well as the
18 relative commitment of public and private purchasers or payers to
19 charity care funding.

20 **Sec. 26.** RCW 70.170.020 and 1995 c 269 s 2203 are each amended to
21 read as follows:

22 As used in this chapter:

23 (1) "Ambulatory surgical facility" means a health care facility
24 licensed as defined in section 1 of this act regardless of whether or
25 not the facility is operated and maintained by a hospital.

26 (2) "Department" means department of health.

27 ((+2)) (3) "Hospital" means any health care institution which is
28 required to qualify for a license under RCW 70.41.020((+2)); or as a
29 psychiatric hospital under chapter 71.12 RCW.

30 ((+3)) (4) "Secretary" means secretary of health.

31 ((+4)) (5) "Charity care" means necessary hospital or ambulatory
32 health care rendered to indigent persons, to the extent that the
33 persons are unable to pay for the care or to pay deductibles or co-
34 insurance amounts required by a third-party payer, as determined by the
35 department.

36 ((+5)) (6) "Sliding fee schedule" means a ((~~hospital-determined~~))
37 publicly available schedule of discounts to charges for persons deemed

1 eligible for charity care as determined by the hospital or ambulatory
2 surgical facility; such schedules shall be established after
3 consideration of guidelines developed by the department.

4 ((+6+)) (7) "Special studies" means studies which have not been
5 funded through the department's biennial or other legislative
6 appropriations.

7 **Sec. 27.** RCW 70.170.060 and 1998 c 245 s 118 are each amended to
8 read as follows:

9 (1) No hospital, ambulatory surgical facility, or its medical staff
10 shall adopt or maintain admission practices or policies which result
11 in:

12 (a) A significant reduction in the proportion of patients who have
13 no third-party coverage and who are unable to pay for ((hospital))
14 inpatient services or ambulatory surgical services at the hospital or
15 ambulatory surgical facility;

16 (b) A significant reduction in the proportion of individuals
17 admitted for inpatient ((hospital)) services or ambulatory surgical
18 services for which payment is, or is likely to be, less than the
19 anticipated charges for or costs of such services; or

20 (c) The refusal to admit patients who would be expected to require
21 unusually costly or prolonged treatment for reasons other than those
22 related to the appropriateness of the care available at the hospital or
23 ambulatory surgical facility.

24 (2) No hospital shall adopt or maintain practices or policies which
25 would deny access to emergency care based on ability to pay. No
26 hospital which maintains an emergency department shall transfer a
27 patient with an emergency medical condition or who is in active labor
28 unless the transfer is performed at the request of the patient or is
29 due to the limited medical resources of the transferring hospital.
30 Hospitals must follow reasonable procedures in making transfers to
31 other hospitals including confirmation of acceptance of the transfer by
32 the receiving hospital.

33 (3) The department shall develop definitions by rule, as
34 appropriate, for subsection (1) of this section and, with reference to
35 federal requirements, subsection (2) of this section. The department
36 shall monitor ((hospital)) the compliance of hospitals and ambulatory

1 surgical facilities with subsections (1) and (2) of this section. The
2 department shall report individual instances of possible noncompliance
3 to the state attorney general or the appropriate federal agency.

4 (4) The department shall establish and maintain by rule, consistent
5 with the definition of charity care in RCW 70.170.020, the following:

6 (a) Uniform procedures, data requirements, and criteria for
7 identifying patients receiving charity care;

8 (b) A definition of residual bad debt including reasonable and
9 uniform standards for collection procedures to be used in efforts to
10 collect the unpaid portions of hospital or ambulatory surgical facility
11 charges that are the patient's responsibility.

12 (5) For the purpose of providing charity care, each hospital and
13 ambulatory surgical facility shall develop, implement, and maintain a
14 charity care policy which, consistent with subsection (1) of this
15 section, shall enable people below the federal poverty level access to
16 appropriate hospital-based medical services and ambulatory surgical
17 services, and a sliding fee schedule for determination of discounts
18 from charges for persons who qualify for such discounts by January 1,
19 1990. The department shall develop specific guidelines to assist
20 hospitals and ambulatory surgical facilities in setting sliding fee
21 schedules required by this section. All persons with family income
22 below one hundred percent of the federal poverty standard shall be
23 deemed charity care patients for the full amount of hospital charges,
24 provided that such persons are not eligible for other private or public
25 health coverage sponsorship. Persons who may be eligible for charity
26 care shall be notified by the hospital or ambulatory surgical facility.

27 (6) Each hospital and ambulatory surgical facility shall make every
28 reasonable effort to determine the existence or nonexistence of private
29 or public sponsorship which might cover in full or part the charges for
30 care rendered by the hospital or ambulatory surgical facility to a
31 patient; the family income of the patient as classified under federal
32 poverty income guidelines; and the eligibility of the patient for
33 charity care as defined in this chapter and in accordance with hospital
34 or ambulatory surgical facility policy. An initial determination of
35 sponsorship status shall precede collection efforts directed at the
36 patient.

37 (7) The department shall monitor the distribution of charity care
38 among hospitals and ambulatory surgical facilities, with reference to

1 factors such as relative need for charity care in hospital service
2 areas and trends in private and public health coverage. The department
3 shall prepare reports that identify any problems in distribution which
4 are in contradiction of the intent of this chapter. The report shall
5 include an assessment of the effects of the provisions of this chapter
6 on access to hospital and health care services, as well as an
7 evaluation of the contribution of all purchasers of care to hospital
8 and ambulatory surgical facility charity care.

9 (8) The department shall issue a report on the subjects addressed
10 in this section at least annually, with the first report due on July 1,
11 1990.

12 **Sec. 28.** RCW 70.170.080 and 1993 sp.s. c 24 s 925 are each amended
13 to read as follows:

14 The basic expenses for the hospital and ambulatory surgical
15 facility data collection and reporting activities of this chapter shall
16 be financed by an assessment against hospitals and ambulatory surgical
17 facilities of no more than four one-hundredths of one percent of each
18 hospital's or ambulatory surgical facility's gross operating costs, to
19 be levied and collected (~~((from and after that date, upon which the~~
20 ~~similar assessment levied under chapter 70.39 RCW is terminated,))~~) for
21 the provision of hospital services or ambulatory surgical facility
22 services for its last fiscal year ending on or before June 30th of the
23 preceding calendar year. Budgetary requirements in excess of that
24 limit must be financed by a general fund appropriation by the
25 legislature. All moneys collected under this section shall be
26 deposited by the state treasurer in the hospital data collection
27 account which is hereby created in the state treasury. The department
28 may also charge, receive, and dispense funds or authorize any
29 contractor or outside sponsor to charge for and reimburse the costs
30 associated with special studies as specified in RCW 70.170.050.

31 During the 1993-1995 fiscal biennium, moneys in the hospital data
32 collection account may be expended, pursuant to appropriation, for
33 hospital or ambulatory surgical facility data analysis and the
34 administration of the health information program.

35 Any amounts raised by the collection of assessments from hospitals
36 and ambulatory surgical facilities provided for in this section which

1 are not required to meet appropriations in the budget act for the
2 current fiscal year shall be available to the department in succeeding
3 years.

4 NEW SECTION. **Sec. 29.** Sections 1 through 18 of this act
5 constitute a new chapter in Title 70 RCW.

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