
HOUSE BILL 2670

State of Washington

60th Legislature

2008 Regular Session

By Representatives Campbell, Hunt, and Kenney; by request of Governor Gregoire

Read first time 01/15/08. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to the adverse health events and incident reporting
2 system; amending RCW 70.56.010, 70.56.010, 70.56.020, 70.56.030,
3 70.56.040, and 70.56.050; reenacting and amending RCW 42.56.360 and
4 42.56.360; providing an effective date; and providing an expiration
5 date.

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

7 **Sec. 1.** RCW 70.56.010 and 2006 c 8 s 105 are each amended to read
8 as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Adverse health event" or "adverse event" means the list of
12 serious reportable events adopted by the national quality forum in
13 2002, in its consensus report on serious reportable events in health
14 care. The department shall update the list, through adoption of rules,
15 as subsequent changes are made by the national quality forum. The term
16 does not include an incident.

17 (2) "Ambulatory surgical facility" means any distinct entity that
18 operates exclusively for the purpose of providing surgical services to

1 patients not requiring hospitalization, whether or not the facility is
2 certified under Title XVIII of the federal social security act.

3 (3) "Childbirth center" means a facility licensed under chapter
4 18.46 RCW.

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

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

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

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

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

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

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

22 "Incident" does not include an adverse event.

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

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

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

34 **Sec. 2.** RCW 70.56.010 and 2007 c 273 s 20 are each amended to read
35 as follows:

36 The definitions in this section apply throughout this chapter
37 unless the context clearly requires otherwise.

1 (1) "Adverse health event" or "adverse event" means the list of
2 serious reportable events adopted by the national quality forum in
3 2002, in its consensus report on serious reportable events in health
4 care. The department shall update the list, through adoption of rules,
5 as subsequent changes are made by the national quality forum. The term
6 does not include an incident.

7 (2) "Ambulatory surgical facility" means a facility licensed under
8 chapter 70.230 RCW.

9 (3) "Childbirth center" means a facility licensed under chapter
10 18.46 RCW.

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

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

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

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

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

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

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

28 "Incident" does not include an adverse event.

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

33 (10) "Medical facility" means a childbirth center, hospital,
34 psychiatric hospital, or correctional medical facility. An ambulatory
35 surgical facility shall be considered a medical facility for purposes
36 of this chapter upon the effective date of any requirement for state
37 registration or licensure of ambulatory surgical facilities.

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

3 **Sec. 3.** RCW 70.56.020 and 2006 c 8 s 106 are each amended to read
4 as follows:

5 (1) The legislature intends to establish an adverse health events
6 and incident notification and reporting system that is designed to
7 facilitate quality improvement in the health care system, improve
8 patient safety, assist the public in making informed health care
9 choices, and decrease medical errors in a nonpunitive manner. The
10 notification and reporting system shall not be designed to punish
11 errors by health care practitioners or health care facility employees.

12 ~~(2) ((Each medical facility shall notify the department of health~~
13 ~~regarding the occurrence of any adverse event and file a subsequent~~
14 ~~report as provided in this section. Notification must be submitted to~~
15 ~~the department within forty-eight hours of confirmation by the medical~~
16 ~~facility that an adverse event has occurred. A subsequent report must~~
17 ~~be submitted to the department within forty-five days after~~
18 ~~confirmation by the medical facility that an adverse event has~~
19 ~~occurred.))~~ When a medical facility confirms that an adverse event has
20 occurred, it shall submit to the department of health:

- 21 (a) Notification of the event within forty-eight hours; and
- 22 (b) A report regarding the event within forty-five days.

23 The notification and report shall be submitted to the department
24 using the internet-based system established under RCW 70.56.040(2).

25 (3) The notification and report shall be filed in a format
26 specified by the department after consultation with medical facilities
27 and the independent entity. The format shall identify the facility,
28 but shall not include any identifying information for any of the health
29 care professionals, facility employees, or patients involved. This
30 provision does not modify the duty of a hospital to make a report to
31 the department of health or a disciplinary authority if a licensed
32 practitioner has committed unprofessional conduct as defined in RCW
33 18.130.180.

34 (4) As part of the report filed under subsection (2)(b) of this
35 section, the medical facility must conduct a root cause analysis of the
36 event, describe the corrective action plan that will be implemented
37 consistent with the findings of the analysis, or provide an explanation

1 of any reasons for not taking corrective action. The department shall
2 adopt rules, in consultation with medical facilities and the
3 independent entity, related to the form and content of the root cause
4 analysis and corrective action plan. In developing the rules,
5 consideration shall be given to existing standards for root cause
6 analysis or corrective action plans adopted by the joint commission on
7 accreditation of health facilities and other national or governmental
8 entities.

9 (5) If, in the course of investigating a complaint received from an
10 employee of a medical facility, the department determines that the
11 facility has not (~~reported~~) provided notification of an adverse event
12 or undertaken efforts to investigate the occurrence of an adverse
13 event, the department shall direct the facility to (~~report~~) provide
14 notification or to undertake an investigation of the event.

15 (6) The protections of RCW 43.70.075 apply to (~~reports~~)
16 notifications of adverse events that are submitted in good faith by
17 employees of medical facilities.

18 **Sec. 4.** RCW 70.56.030 and 2007 c 259 s 13 are each amended to read
19 as follows:

20 (1) The department shall:

21 (a) Receive and investigate, where necessary, notifications and
22 reports of adverse events, including root cause analyses and corrective
23 action plans submitted as part of reports, and communicate to
24 individual facilities the department's conclusions, if any, regarding
25 an adverse event reported by a facility;

26 (b) Provide to the Washington state quality forum established in
27 RCW 41.05.029 such information from the adverse (~~health events and~~
28 ~~incidents reports made under this chapter~~) events notifications under
29 RCW 70.56.020(2)(a), the adverse events reports under RCW
30 70.56.020(2)(b), and the incidents notifications under RCW 70.56.040(5)
31 as the department and the Washington state quality forum determine will
32 assist in the Washington state quality forum's research regarding
33 health care quality, evidence-based medicine, and patient safety.
34 (~~Any~~) Shared information (~~must be aggregated and not~~) shall
35 identify an individual medical facility. As determined by the
36 department and the Washington state quality forum, selected shared

1 information, otherwise subject to public disclosure, may be
2 disseminated on the Washington state quality forum's web site and
3 through other appropriate means; ~~((and))~~

4 (c) Make available to the public the notifications of adverse
5 events under RCW 70.56.020(2)(a) and notifications of incidents as
6 defined in RCW 70.56.010(8)(a) under RCW 70.56.040(5); and

7 (d) Adopt rules as necessary to implement this chapter.

8 (2) The department may enforce the notification and reporting
9 requirements of RCW 70.56.020 using its existing enforcement authority
10 provided in chapter 18.46 RCW for childbirth centers, chapter 70.41 RCW
11 for hospitals, and chapter 71.12 RCW for psychiatric hospitals.

12 **Sec. 5.** RCW 70.56.040 and 2006 c 8 s 108 are each amended to read
13 as follows:

14 (1) The department shall contract with a qualified, independent
15 entity to receive notifications and reports of adverse events and
16 incidents, and carry out the activities specified in this section. In
17 establishing qualifications for, and choosing the independent entity,
18 the department shall strongly consider the patient safety organization
19 criteria included in the federal patient safety and quality improvement
20 act of 2005, P.L. 109-41, and any regulations adopted to implement this
21 chapter.

22 (2) The independent entity shall:

23 (a) In collaboration with the department of health, establish an
24 internet-based system for medical facilities and the health care
25 workers of a medical facility to submit notifications and reports of
26 adverse events and incidents, which shall be accessible twenty-four
27 hours a day, seven days a week. The system shall be a portal to report
28 both adverse events and incidents, and notifications and reports of
29 adverse events shall be immediately transmitted to the department. The
30 system shall be a secure system that protects the confidentiality of
31 personal health information and provider and facility specific
32 information submitted in notifications and reports, including
33 appropriate encryption and an accurate means of authenticating the
34 ~~((identify [identity]))~~ identity of users of the system;

35 (b) Collect, analyze, and evaluate data regarding notifications and
36 reports of adverse events and incidents, including the identification

1 of performance indicators and patterns in frequency or severity at
2 certain medical facilities or in certain regions of the state;

3 (c) Develop recommendations for changes in health care practices
4 and procedures, which may be instituted for the purpose of reducing the
5 number or severity of adverse events and incidents;

6 (d) Directly advise reporting medical facilities of immediate
7 changes that can be instituted to reduce adverse events or incidents;

8 (e) Issue recommendations to medical facilities on a
9 facility-specific or on a statewide basis regarding changes, trends,
10 and improvements in health care practices and procedures for the
11 purpose of reducing the number and severity of adverse events or
12 incidents. Prior to issuing recommendations, consideration shall be
13 given to the following factors: Expectation of improved quality of
14 care, implementation feasibility, other relevant implementation
15 practices, and the cost impact to patients, payers, and medical
16 facilities. Statewide recommendations shall be issued to medical
17 facilities on a continuing basis and shall be published and posted on
18 a publicly accessible web site. The recommendations made to medical
19 facilities under this section shall not be considered mandatory for
20 licensure purposes unless they are adopted by the department as rules
21 pursuant to chapter 34.05 RCW; and

22 (f) Monitor implementation of reporting systems addressing adverse
23 events or their equivalent in other states and make recommendations to
24 the governor and the legislature as necessary for modifications to this
25 chapter to keep the system as nearly consistent as possible with
26 similar systems in other states.

27 (3) The independent entity shall report no later than January 1,
28 2008, and annually thereafter to the governor and the legislature on
29 the activities under this chapter in the preceding year. The report
30 shall include:

31 (a) The number of adverse events and incidents reported by medical
32 facilities (~~(on a geographical basis)~~) and their outcomes. For each
33 facility, the report shall identify the date of each occurrence of an
34 adverse event or incident, as defined in RCW 70.56.010(8)(a), the type
35 of adverse event or incident, as defined in RCW 70.56.010(8)(a), and
36 other information as determined by the department to be relevant to
37 establish context for consumers of health care. Such information may

1 include relevant descriptive information about the number and acuity
2 level of patients at the medical facility and the medical facility's
3 efforts to discover and prevent similar adverse events and incidents;

4 (b) The information derived from the data collected, including any
5 recognized trends concerning patient safety; and

6 (c) Recommendations for statutory or regulatory changes that may
7 help improve patient safety in the state.

8 The annual report shall be made available for public inspection and
9 shall be posted on the department's and the independent entity's web
10 site.

11 (4) The independent entity shall conduct all activities under this
12 section in a manner that preserves the confidentiality of facilities,
13 documents, materials, or information made confidential by RCW
14 70.56.050.

15 (5) Medical facilities and health care workers may (~~report~~)
16 provide notification of incidents to the independent entity. The
17 (~~report~~) notification shall be filed in a format specified by the
18 independent entity, after consultation with the department and medical
19 facilities, and shall identify the facility but shall not include any
20 identifying information for any of the health care professionals,
21 facility employees, or patients involved. This provision does not
22 modify the duty of a hospital to make a report to the department or a
23 disciplinary authority if a licensed practitioner has committed
24 unprofessional conduct as defined in RCW 18.130.180. The protections
25 of RCW 43.70.075 apply to (~~reports~~) notifications of incidents that
26 are submitted in good faith by employees of medical facilities.

27 **Sec. 6.** RCW 70.56.050 and 2006 c 8 s 110 are each amended to read
28 as follows:

29 (1) When (~~a notification or report of an adverse event or incident~~
30 ~~under RCW 70.56.020 or 70.56.040~~) notification of an adverse event
31 under RCW 70.56.020(2)(a) or of an incident under RCW 70.56.040(5), or
32 a report regarding an adverse event under RCW 70.56.020(2)(b) is made
33 by or through a coordinated quality improvement program under RCW
34 43.70.510 or 70.41.200, or by a peer review committee under RCW
35 4.24.250, information and documents, including complaints and incident
36 reports, created specifically for and collected and maintained by a
37 quality improvement committee for the purpose of preparing a

1 notification (~~or report~~) of an adverse event or incident, (~~and~~) or
2 a report regarding an adverse event, the (~~notification or~~) report
3 itself, and the notification of an incident, as defined in RCW
4 70.56.010(8)(b), shall be subject to the confidentiality protections of
5 those laws and RCW (~~42.17.310(1)(hh) and~~) 42.56.360(1)(c). The
6 notification of an adverse event or an incident, as defined in RCW
7 70.56.010(8)(a), shall be subject to public disclosure and not exempt
8 from disclosure under chapter 42.56 RCW.

9 (2) When (~~a notification or report of an adverse event or incident~~
10 ~~made by a health care worker under RCW 70.56.020 or 70.56.040~~)
11 notification of an adverse event under RCW 70.56.020(2)(a) or of an
12 incident under RCW 70.56.040(5), or a report regarding an adverse event
13 under RCW 70.56.020(2)(b), made by a health care worker uses
14 information and documents, including complaints and incident reports,
15 created specifically for and collected and maintained by a quality
16 improvement committee under RCW 43.70.510 or 70.41.200 or a peer review
17 committee under RCW 4.24.250, (~~the~~) a notification (~~or~~) of an
18 incident, as defined in RCW 70.56.010(8)(b), the report itself, and the
19 information or documents used for the purpose of preparing (~~the~~)
20 notifications or the report, shall be subject to the confidentiality
21 protections of those laws and RCW (~~42.17.310(1)(hh) and~~)
22 42.56.360(1)(c). The notification of an adverse event or an incident,
23 as defined in RCW 70.56.010(8)(a), shall be subject to public
24 disclosure and not exempt from disclosure under chapter 42.56 RCW.

25 (3) Nothing in this section precludes the disclosure of information
26 specified in RCW 70.56.040(3).

27 **Sec. 7.** RCW 42.56.360 and 2007 c 261 s 4 and 2007 c 259 s 49 are
28 each reenacted and amended to read as follows:

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

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

33 (b) Information obtained by the board of pharmacy or the department
34 of health and its representatives as provided in RCW 69.41.044,
35 69.41.280, and 18.64.420;

36 (c) Information and documents created specifically for, and
37 collected and maintained by a quality improvement committee under RCW

1 43.70.510 or 70.41.200, or by a peer review committee under RCW
2 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640
3 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for
4 reporting of health care-associated infections under RCW 43.70.056,
5 (~~and notifications or reports of adverse events or incidents made~~
6 ~~under RCW 70.56.020 or 70.56.040,~~) a notification of an incident, as
7 defined in RCW 70.56.010(8)(b), and reports regarding adverse events
8 under RCW 70.56.020(2)(b), regardless of which agency is in possession
9 of the information and documents;

10 (d)(i) Proprietary financial and commercial information that the
11 submitting entity, with review by the department of health,
12 specifically identifies at the time it is submitted and that is
13 provided to or obtained by the department of health in connection with
14 an application for, or the supervision of, an antitrust exemption
15 sought by the submitting entity under RCW 43.72.310;

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

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

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

28 (f) Except for published statistical compilations and reports
29 relating to the infant mortality review studies that do not identify
30 individual cases and sources of information, any records or documents
31 obtained, prepared, or maintained by the local health department for
32 the purposes of an infant mortality review conducted by the department
33 of health under RCW 70.05.170;

34 (g) Complaints filed under chapter 18.130 RCW after July 27, 1997,
35 to the extent provided in RCW 18.130.095(1); and

36 (h) Information obtained by the department of health under chapter
37 70.225 RCW.

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

3 **Sec. 8.** RCW 42.56.360 and 2007 c 273 s 25, 2007 c 261 s 4, and
4 2007 c 259 s 49 are each reenacted and amended to read as follows:

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

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

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

12 (c) Information and documents created specifically for, and
13 collected and maintained by a quality improvement committee under RCW
14 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee
15 under RCW 4.24.250, or by a quality assurance committee pursuant to RCW
16 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056,
17 for reporting of health care-associated infections under RCW 43.70.056,
18 (~~and notifications or reports of adverse events or incidents made~~
19 ~~under RCW 70.56.020 or 70.56.040,~~) a notification of an incident, as
20 defined in RCW 70.56.010(8)(b), and reports regarding adverse events
21 under RCW 70.56.020(2)(b), regardless of which agency is in possession
22 of the information and documents;

23 (d)(i) Proprietary financial and commercial information that the
24 submitting entity, with review by the department of health,
25 specifically identifies at the time it is submitted and that is
26 provided to or obtained by the department of health in connection with
27 an application for, or the supervision of, an antitrust exemption
28 sought by the submitting entity under RCW 43.72.310;

29 (ii) If a request for such information is received, the submitting
30 entity must be notified of the request. Within ten business days of
31 receipt of the notice, the submitting entity shall provide a written
32 statement of the continuing need for confidentiality, which shall be
33 provided to the requester. Upon receipt of such notice, the department
34 of health shall continue to treat information designated under this
35 subsection (1)(d) as exempt from disclosure;

36 (iii) If the requester initiates an action to compel disclosure

1 under this chapter, the submitting entity must be joined as a party to
2 demonstrate the continuing need for confidentiality;

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

5 (f) Except for published statistical compilations and reports
6 relating to the infant mortality review studies that do not identify
7 individual cases and sources of information, any records or documents
8 obtained, prepared, or maintained by the local health department for
9 the purposes of an infant mortality review conducted by the department
10 of health under RCW 70.05.170;

11 (g) Complaints filed under chapter 18.130 RCW after July 27, 1997,
12 to the extent provided in RCW 18.130.095(1); and

13 (h) Information obtained by the department of health under chapter
14 70.225 RCW.

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

17 NEW SECTION. **Sec. 9.** Sections 1 and 7 of this act expire July 1,
18 2009.

19 NEW SECTION. **Sec. 10.** Sections 2 and 8 of this act take effect
20 July 1, 2009.

--- END ---