

# SENATE BILL REPORT

## ESHB 2318

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As Reported by Senate Committee On:  
Health & Long-Term Care, February 23, 2012

**Title:** An act relating to shared decision making.

**Brief Description:** Concerning shared decision making.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Hinkle, Bailey and Jinkins).

**Brief History:** Passed House: 2/14/12, 98-0.

**Committee Activity:** Health & Long-Term Care: 2/23/12 [DP, w/oRec].

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Majority Report:** Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Frockt, Kline, Pflug and Pridemore.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Becker, Ranking Minority Member; Carrell and Parlette.

**Staff:** Veronica Warnock (786-7490)

**Background:** Prior to rendering treatment, a physician or other health care provider must obtain the informed consent of a patient or a patient's authorized representative. Informed consent may be obtained through a signed consent form that sets forth the anticipated results, benefits, and possible risks of the treatment and alternatives to treatment. Informed consent may also be obtained through shared decision making. Shared decision making is a process by which a health care provider shares with the patient or patient's authorized representative all available treatment alternatives and the risks, benefits, and uncertainties of these treatments using patient decision aids. Additionally, the patient shares with the health care provider all relevant personal information that might make one treatment or side effect more or less tolerable than others. Patient decision aids include brochures, videos, and other written, audio-visual, or online tools and must be certified by a national certifying agency. Informed consent obtained through shared decision making is documented through a signed acknowledgment of shared decision making.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

If a health care provider fails to obtain informed consent, the provider may be subject to liability for failure to obtain informed consent, even if the provider complies with the recognized standard of care in the performance of the procedure itself. If informed consent is obtained, a signed consent form or acknowledgment of shared decision making form constitutes prima facie evidence that the patient gave his or her informed consent to the treatment administered. The patient then has the burden of rebutting this presumption by a preponderance of the evidence.

**Summary of Bill:** For the purposes of shared decision making, a patient decision aid must be certified by a national organization recognized by the Medical Director of the Health Care Authority (Director). Alternatively, the patient decision aid must have been evaluated, based on the international patient decision aid standards, by an organization located in the United States or Canada and have a current overall score satisfactory to the Director. If there is no such organization in the United States or Canada, the Director may independently assess and certify the decision aid based on the international patient decision aid standards. The Health Care Authority may charge a fee to the certification applicant to defray the costs of the assessment and certification. It is clarified that a patient decision aid may address any medical condition, including abortion.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill expands which patient decision aids health care providers may use in the shared decision making process. Current law limits which decision aids may be utilized. Shared decision making has been successful in fully informing patients of their treatment options. This bill would enable shared decision making to be more fully utilized.

**Persons Testifying:** PRO: Amber Ulvenes, Group Health; Susie Tracy, WA State Medical Assn.