

ESB 5666 - CONF REPT
By Conference Committee

ADOPTED 04/26/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 7.71.030 and 2012 c 165 s 1 are each amended to read
4 as follows:

5 (1) If the limitation on damages under RCW 7.71.020 and P.L. 99-660
6 Sec. 411(a)(1) does not apply, this section shall provide the exclusive
7 ((remedy)) remedies in any lawsuit by a health care provider for any
8 action taken by a professional peer review body of health care
9 providers as defined in RCW 7.70.020(~~(, that is found to be based on~~
10 ~~matters not related to the competence or professional conduct of a~~
11 ~~health care provider))~~).

12 (2) ~~((Actions))~~ Remedies shall be limited to appropriate injunctive
13 relief, and damages shall be allowed only for lost earnings directly
14 attributable to the action taken by the professional peer review body,
15 incurred between the date of such action and the date the action is
16 functionally reversed by the professional peer review body.

17 (3) Reasonable attorneys' fees and costs shall be awarded if
18 approved by the court under RCW 7.71.035.

19 (4) The statute of limitations for actions under this section shall
20 be one year from the date of the action of the professional peer review
21 body.

22 **Sec. 2.** RCW 70.41.200 and 2007 c 273 s 22 and 2007 c 261 s 3 are
23 each reenacted and amended to read as follows:

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

28 (a) The establishment of ~~((a))~~ one or more quality improvement
29 committees with the responsibility to review the services rendered in

1 the hospital, both retrospectively and prospectively, in order to
2 improve the quality of medical care of patients and to prevent medical
3 malpractice. ((The)) Different quality improvement committees may be
4 established as a part of a quality improvement program to review
5 different health care services. Such committees shall oversee and
6 coordinate the quality improvement and medical malpractice prevention
7 program and shall ensure that information gathered pursuant to the
8 program is used to review and to revise hospital policies and
9 procedures;

10 (b) A process, including a medical staff privileges sanction
11 procedure which must be conducted substantially in accordance with
12 medical staff bylaws and applicable rules, regulations, or policies of
13 the medical staff through which credentials, physical and mental
14 capacity, professional conduct, and competence in delivering health
15 care services are periodically reviewed as part of an evaluation of
16 staff privileges;

17 (c) ((The)) A process for the periodic review of the credentials,
18 physical and mental capacity, professional conduct, and competence in
19 delivering health care services of all ((persons)) other health care
20 providers who are employed or associated with the hospital;

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

24 (e) The maintenance and continuous collection of information
25 concerning the hospital's experience with negative health care outcomes
26 and incidents injurious to patients including health care-associated
27 infections as defined in RCW 43.70.056, patient grievances,
28 professional liability premiums, settlements, awards, costs incurred by
29 the hospital for patient injury prevention, and safety improvement
30 activities;

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

35 (g) Education programs dealing with quality improvement, patient
36 safety, medication errors, injury prevention, infection control, staff
37 responsibility to report professional misconduct, the legal aspects of

1 patient care, improved communication with patients, and causes of
2 malpractice claims for staff personnel engaged in patient care
3 activities; and

4 (h) Policies to ensure compliance with the reporting requirements
5 of this section.

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

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

1 information collected and maintained by quality improvement committees
2 regarding such health care provider; (d) in any civil action,
3 disclosure of the fact that staff privileges were terminated or
4 restricted, including the specific restrictions imposed, if any and the
5 reasons for the restrictions; or (e) in any civil action, discovery and
6 introduction into evidence of the patient's medical records required by
7 regulation of the department of health to be made regarding the care
8 and treatment received.

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

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

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

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

35 (8) A coordinated quality improvement program may share information
36 and documents, including complaints and incident reports, created
37 specifically for, and collected and maintained by, a quality
38 improvement committee or a peer review committee under RCW 4.24.250

1 with one or more other coordinated quality improvement programs
2 maintained in accordance with this section or RCW 43.70.510, a
3 coordinated quality improvement committee maintained by an ambulatory
4 surgical facility under RCW 70.230.070, a quality assurance committee
5 maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer
6 review committee under RCW 4.24.250, for the improvement of the quality
7 of health care services rendered to patients and the identification and
8 prevention of medical malpractice. The privacy protections of chapter
9 70.02 RCW and the federal health insurance portability and
10 accountability act of 1996 and its implementing regulations apply to
11 the sharing of individually identifiable patient information held by a
12 coordinated quality improvement program. Any rules necessary to
13 implement this section shall meet the requirements of applicable
14 federal and state privacy laws. Information and documents disclosed by
15 one coordinated quality improvement program to another coordinated
16 quality improvement program or a peer review committee under RCW
17 4.24.250 and any information and documents created or maintained as a
18 result of the sharing of information and documents shall not be subject
19 to the discovery process and confidentiality shall be respected as
20 required by subsection (3) of this section, RCW 18.20.390 (6) and (8),
21 74.42.640 (7) and (9), and 4.24.250.

22 (9) A hospital that operates a nursing home as defined in RCW
23 18.51.010 may conduct quality improvement activities for both the
24 hospital and the nursing home through a quality improvement committee
25 under this section, and such activities shall be subject to the
26 provisions of subsections (2) through (8) of this section.

27 (10) Violation of this section shall not be considered negligence
28 per se.

29 **Sec. 3.** RCW 70.41.230 and 1994 sp.s. c 9 s 744 are each amended to
30 read as follows:

31 (1) Prior to granting or renewing clinical privileges or
32 association of any physician or hiring a physician, a hospital or
33 facility approved pursuant to this chapter shall request from the
34 physician and the physician shall provide the following information:

35 (a) The name of any hospital or facility with or at which the
36 physician had or has any association, employment, privileges, or
37 practice during the prior five years: PROVIDED, That the hospital may

1 request additional information going back further than five years, and
2 the physician shall use his or her best efforts to comply with such a
3 request for additional information;

4 ~~(b) ((If such association, employment, privilege, or practice was~~
5 ~~discontinued, the reasons for its discontinuation))~~ Whether the
6 physician has ever been or is in the process of being denied, revoked,
7 terminated, suspended, restricted, reduced, limited, sanctioned, placed
8 on probation, monitored, or not renewed for any professional activity
9 listed in (b)(i) through (x) of this subsection, or has ever
10 voluntarily or involuntarily relinquished, withdrawn, or failed to
11 proceed with an application for any professional activity listed in
12 (b)(i) through (x) of this subsection in order to avoid an adverse
13 action or to preclude an investigation or while under investigation
14 relating to professional competence or conduct:

15 (i) License to practice any profession in any jurisdiction;

16 (ii) Other professional registration or certification in any
17 jurisdiction;

18 (iii) Specialty or subspecialty board certification;

19 (iv) Membership on any hospital medical staff;

20 (v) Clinical privileges at any facility, including hospitals,
21 ambulatory surgical centers, or skilled nursing facilities;

22 (vi) Medicare, medicaid, the food and drug administration, the
23 national institute of health (office of human research protection),
24 governmental, national, or international regulatory agency, or any
25 public program;

26 (vii) Professional society membership or fellowship;

27 (viii) Participation or membership in a health maintenance
28 organization, preferred provider organization, independent practice
29 association, physician-hospital organization, or other entity;

30 (ix) Academic appointment;

31 (x) Authority to prescribe controlled substances (drug enforcement
32 agency or other authority);

33 (c) Any pending professional medical misconduct proceedings or any
34 pending medical malpractice actions in this state or another state, the
35 substance of the allegations in the proceedings or actions, and any
36 additional information concerning the proceedings or actions as the
37 physician deems appropriate;

1 (d) The substance of the findings in the actions or proceedings and
2 any additional information concerning the actions or proceedings as the
3 physician deems appropriate;

4 (e) A waiver by the physician of any confidentiality provisions
5 concerning the information required to be provided to hospitals
6 pursuant to this subsection; and

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

9 (2) Prior to granting privileges or association to any physician or
10 hiring a physician, a hospital or facility approved pursuant to this
11 chapter shall request from any hospital with or at which the physician
12 had or has privileges, was associated, or was employed, during the
13 preceding five years, the following information concerning the
14 physician:

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

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

20 (c) Any information required to be reported by hospitals pursuant
21 to RCW 18.71.0195.

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

26 (4) A hospital or facility that receives a request for information
27 from another hospital or facility pursuant to subsections (1) and (2)
28 of this section shall provide such information concerning the physician
29 in question to the extent such information is known to the hospital or
30 facility receiving such a request, including the reasons for
31 suspension, termination, or curtailment of employment or privileges at
32 the hospital or facility. A hospital, facility, or other person
33 providing such information in good faith is not liable in any civil
34 action for the release of such information.

35 (5) Information and documents, including complaints and incident
36 reports, created specifically for, and collected, and maintained by a
37 quality improvement committee are not subject to discovery or
38 introduction into evidence in any civil action, and no person who was

1 in attendance at a meeting of such committee or who participated in the
2 creation, collection, or maintenance of information or documents
3 specifically for the committee shall be permitted or required to
4 testify in any civil action as to the content of such proceedings or
5 the documents and information prepared specifically for the committee.
6 This subsection does not preclude: (a) In any civil action, the
7 discovery of the identity of persons involved in the medical care that
8 is the basis of the civil action whose involvement was independent of
9 any quality improvement activity; (b) in any civil action, the
10 testimony of any person concerning the facts which form the basis for
11 the institution of such proceedings of which the person had personal
12 knowledge acquired independently of such proceedings; (c) in any civil
13 action by a health care provider regarding the restriction or
14 revocation of that individual's clinical or staff privileges,
15 introduction into evidence information collected and maintained by
16 quality improvement committees regarding such health care provider; (d)
17 in any civil action, disclosure of the fact that staff privileges were
18 terminated or restricted, including the specific restrictions imposed,
19 if any and the reasons for the restrictions; or (e) in any civil
20 action, discovery and introduction into evidence of the patient's
21 medical records required by regulation of the department of health to
22 be made regarding the care and treatment received.

23 (6) Hospitals shall be granted access to information held by the
24 medical quality assurance commission and the board of osteopathic
25 medicine and surgery pertinent to decisions of the hospital regarding
26 credentialing and recredentialing of practitioners.

27 (7) Violation of this section shall not be considered negligence
28 per se.

29 **Sec. 4.** RCW 70.230.080 and 2007 c 273 s 9 are each amended to read
30 as follows:

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

36 (a) The establishment of ((a)) one or more quality improvement
37 committees with the responsibility to review the services rendered in

1 the ambulatory surgical facility, both retrospectively and
2 prospectively, in order to improve the quality of medical care of
3 patients and to prevent medical malpractice. ((The)) Different quality
4 improvement committees may be established as a part of the quality
5 improvement program to review different health care services. Such
6 committees shall oversee and coordinate the quality improvement and
7 medical malpractice prevention program and shall ensure that
8 information gathered pursuant to the program is used to review and to
9 revise the policies and procedures of the ambulatory surgical facility;

10 (b) A process, including a medical staff privileges sanction
11 procedure which must be conducted substantially in accordance with
12 medical staff bylaws and applicable rules, regulations, or policies of
13 the medical staff through which credentials, physical and mental
14 capacity, professional conduct, and competence in delivering health
15 care services are periodically reviewed as part of an evaluation of
16 staff privileges;

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

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

24 (e) The maintenance and continuous collection of information
25 concerning the ambulatory surgical facility's experience with negative
26 health care outcomes and incidents injurious to patients, patient
27 grievances, professional liability premiums, settlements, awards, costs
28 incurred by the ambulatory surgical facility for patient injury
29 prevention, and safety improvement activities;

30 (f) The maintenance of relevant and appropriate information
31 gathered pursuant to (a) through (e) of this subsection concerning
32 individual practitioners within the practitioner's personnel or
33 credential file maintained by the ambulatory surgical facility;

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

1 (h) Policies to ensure compliance with the reporting requirements
2 of this section.

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

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

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

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

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

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

25 (7) The department and any accrediting organization may review and
26 audit the records of a quality improvement committee or peer review
27 committee in connection with their inspection and review of the
28 ambulatory surgical facility. Information so obtained is not subject
29 to the discovery process, and confidentiality shall be respected as
30 required by subsection (3) of this section. Each ambulatory surgical
31 facility shall produce and make accessible to the department the
32 appropriate records and otherwise facilitate the review and audit.

33 (8) A coordinated quality improvement program may share information
34 and documents, including complaints and incident reports, created
35 specifically for, and collected and maintained by, a quality
36 improvement committee or a peer review committee under RCW 4.24.250
37 with one or more other coordinated quality improvement programs
38 maintained in accordance with this section or RCW 43.70.510 or

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

19 (9) An ambulatory surgical facility that participates in a
20 coordinated quality improvement program under RCW 43.70.510 shall be
21 deemed to have met the requirements of this section.

22 (10) Violation of this section shall not be considered negligence
23 per se.

24 **Sec. 5.** RCW 70.230.140 and 2007 c 273 s 15 are each amended to
25 read as follows:

26 (1) Prior to granting or renewing clinical privileges or
27 association of any practitioner or hiring a practitioner, an ambulatory
28 surgical facility approved pursuant to this chapter shall request from
29 the practitioner and the practitioner shall provide the following
30 information:

31 (a) The name of any hospital, ambulatory surgical facility, or
32 other facility with or at which the practitioner had or has any
33 association, employment, privileges, or practice during the prior five
34 years: PROVIDED, That the ambulatory surgical facility may request
35 additional information going back further than five years, and the
36 physician shall use his or her best efforts to comply with such a
37 request for additional information;

1 (b) (~~If such association, employment, privilege, or practice was~~
2 ~~discontinued, the reasons for its discontinuation~~) Whether the
3 physician has ever been or is in the process of being denied, revoked,
4 terminated, suspended, restricted, reduced, limited, sanctioned, placed
5 on probation, monitored, or not renewed for any professional activity
6 listed in (b)(i) through (x) of this subsection, or has ever
7 voluntarily or involuntarily relinquished, withdrawn, or failed to
8 proceed with an application for any professional activity listed in
9 (b)(i) through (x) of this subsection in order to avoid an adverse
10 action or to preclude an investigation or while under investigation
11 relating to professional competence or conduct:

12 (i) License to practice any profession in any jurisdiction;

13 (ii) Other professional registration or certification in any
14 jurisdiction;

15 (iii) Specialty or subspecialty board certification;

16 (iv) Membership on any hospital medical staff;

17 (v) Clinical privileges at any facility, including hospitals,
18 ambulatory surgical centers, or skilled nursing facilities;

19 (vi) Medicare, medicaid, the food and drug administration, the
20 national institute of health (office of human research protection),
21 governmental, national, or international regulatory agency, or any
22 public program;

23 (vii) Professional society membership or fellowship;

24 (viii) Participation or membership in a health maintenance
25 organization, preferred provider organization, independent practice
26 association, physician-hospital organization, or other entity;

27 (ix) Academic appointment;

28 (x) Authority to prescribe controlled substances (drug enforcement
29 agency or other authority);

30 (c) Any pending professional medical misconduct proceedings or any
31 pending medical malpractice actions in this state or another state, the
32 substance of the allegations in the proceedings or actions, and any
33 additional information concerning the proceedings or actions as the
34 practitioner deems appropriate;

35 (d) The substance of the findings in the actions or proceedings and
36 any additional information concerning the actions or proceedings as the
37 practitioner deems appropriate;

1 (e) A waiver by the practitioner of any confidentiality provisions
2 concerning the information required to be provided to ambulatory
3 surgical facilities pursuant to this subsection; and

4 (f) A verification by the practitioner that the information
5 provided by the practitioner is accurate and complete.

6 (2) Prior to granting privileges or association to any practitioner
7 or hiring a practitioner, an ambulatory surgical facility approved
8 under this chapter shall request from any hospital or ambulatory
9 surgical facility with or at which the practitioner had or has
10 privileges, was associated, or was employed, during the preceding five
11 years, the following information concerning the practitioner:

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

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

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

19 (3) The medical quality assurance commission, board of osteopathic
20 medicine and surgery, podiatric medical board, or dental quality
21 assurance commission, as appropriate, shall be advised within thirty
22 days of the name of any practitioner denied staff privileges,
23 association, or employment on the basis of adverse findings under
24 subsection (1) of this section.

25 (4) A hospital, ambulatory surgical facility, or other facility
26 that receives a request for information from another hospital,
27 ambulatory surgical facility, or other facility pursuant to subsections
28 (1) and (2) of this section shall provide such information concerning
29 the physician in question to the extent such information is known to
30 the hospital, ambulatory surgical facility, or other facility receiving
31 such a request, including the reasons for suspension, termination, or
32 curtailment of employment or privileges at the hospital, ambulatory
33 surgical facility, or facility. A hospital, ambulatory surgical
34 facility, other facility, or other person providing such information in
35 good faith is not liable in any civil action for the release of such
36 information.

37 (5) Information and documents, including complaints and incident
38 reports, created specifically for, and collected and maintained by, a

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

25 (6) Ambulatory surgical facilities shall be granted access to
26 information held by the medical quality assurance commission, board of
27 osteopathic medicine and surgery, or podiatric medical board pertinent
28 to decisions of the ambulatory surgical facility regarding
29 credentialing and recredentialing of practitioners.

30 (7) Violation of this section shall not be considered negligence
31 per se."

ADOPTED 04/26/2013

1 On page 1, line 1 of the title, after "Relating to" strike the
2 remainder of the title and insert "health care quality improvement
3 measures, including professional peer review; amending RCW 7.71.030,
4 70.41.230, 70.230.080, and 70.230.140; and reenacting and amending RCW
5 70.41.200."

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