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**SENATE BILL 5601**

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**State of Washington**                      **63rd Legislature**                      **2013 Regular Session**

**By** Senators Becker, Cleveland, Dammeier, and Schlicher

Read first time 02/05/13. Referred to Committee on Health Care .

1            AN ACT Relating to ensuring chapter 19.68 RCW is interpreted in a  
2 manner consistent with the federal antikickback statute; adding new  
3 sections to chapter 19.68 RCW; creating a new section; and declaring an  
4 emergency.

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

6            NEW SECTION.        **Sec. 1.**        (1) The legislature recognizes the  
7 complexity of the health care delivery system and the need to provide  
8 a clear and consistent regulatory framework to enable health care  
9 providers to manage their operations in an efficient and effective  
10 manner. The legislature also recognizes that the donation of  
11 electronic health records systems reduces health care costs, promotes  
12 patient safety, and improves the quality of health care.

13            (2) To further the important national policy of promoting the  
14 widespread adoption of electronic health records systems, the federal  
15 antikickback statute and the rules adopted to implement the statute  
16 contain a safe harbor that allows the donation of electronic health  
17 records systems. The federal statute and rules also contain additional  
18 safe harbors to preserve a variety of other activities which, in many

1 cases, improve access to health care. For health care entities other  
2 than clinical laboratories, the legality of all of these arrangements  
3 is currently in question.

4 (3) The legislature is adding language to chapter 19.68 RCW to  
5 ensure that, except with respect to arrangements involving an entity  
6 which principally operates as a clinical laboratory, it is interpreted  
7 in a manner consistent with the federal antikickback statute.

8 NEW SECTION. **Sec. 2.** (1) Nothing in this chapter may be construed  
9 to limit or prohibit the donation of electronic health record  
10 technology or other activity by any entity, including a hospital  
11 licensed under chapter 70.41 RCW that operates a clinical laboratory,  
12 when the donation or other activity is allowed by or otherwise does not  
13 violate, 42 U.S.C. Sec. 1320a-7b(b) or the federal rules adopted to  
14 implement 42 U.S.C. Sec. 1320a-7b(b).

15 (2) This section does not apply to any entity which principally  
16 operates as a clinical laboratory licensed or certified under section  
17 353 of the public health service act, 42 U.S.C. Sec. 263a, or other  
18 applicable Washington state law.

19 NEW SECTION. **Sec. 3.** The definitions in this section apply  
20 throughout this chapter unless the context clearly requires otherwise.

21 "Electronic health record technology" means items and services, in  
22 the form of software or information technology and training services,  
23 necessary and used predominantly to create, maintain, transmit, or  
24 receive electronic health records.

25 NEW SECTION. **Sec. 4.** Sections 2 and 3 of this act are each added  
26 to chapter 19.68 RCW.

27 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of the  
29 state government and its existing public institutions, and takes effect  
30 immediately.

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