

E2SSB 6534 - H COMM AMD
By Committee on Appropriations

ADOPTED 03/03/2016

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

3 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54
4 RCW to read as follows:

5 (1) For the purposes of this section, "maternal mortality" or
6 "maternal death" means a death of a woman while pregnant or within
7 one year of delivering or following the end of a pregnancy, whether
8 or not the woman's death is related to or aggravated by the
9 pregnancy.

10 (2) A maternal mortality review panel is established to conduct
11 comprehensive, multidisciplinary reviews of maternal deaths in
12 Washington to identify factors associated with the deaths and make
13 recommendations for system changes to improve health care services
14 for women in this state. The members of the panel must be appointed
15 by the secretary of the department of health, must serve without
16 compensation, and may include:

- 17 (a) An obstetrician;
18 (b) A physician specializing in maternal fetal medicine;
19 (c) A neonatologist;
20 (d) A midwife with licensure in the state of Washington;
21 (e) A representative from the department of health who works in
22 the field of maternal and child health;
23 (f) A department of health epidemiologist with experience
24 analyzing perinatal data;
25 (g) A pathologist; and
26 (h) A representative of the community mental health centers.

27 (3) The maternal mortality review panel must conduct
28 comprehensive, multidisciplinary reviews of maternal mortality in
29 Washington. The panel may not call witnesses or take testimony from
30 any individual involved in the investigation of a maternal death or
31 enforce any public health standard or criminal law or otherwise
32 participate in any legal proceeding relating to a maternal death.

1 (4)(a) Information, documents, proceedings, records, and opinions
2 created, collected, or maintained by the maternity mortality review
3 panel or the department of health in support of the maternal
4 mortality review panel are confidential and are not subject to public
5 inspection or copying under chapter 42.56 RCW and are not subject to
6 discovery or introduction into evidence in any civil or criminal
7 action.

8 (b) Any person who was in attendance at a meeting of the maternal
9 mortality review panel or who participated in the creation,
10 collection, or maintenance of the panel's information, documents,
11 proceedings, records, or opinions may not be permitted or required to
12 testify in any civil or criminal action as to the content of such
13 proceedings, or the panel's information, documents, records, or
14 opinions. This subsection does not prevent a member of the panel from
15 testifying in a civil or criminal action concerning facts which form
16 the basis for the panel's proceedings of which the panel member had
17 personal knowledge acquired independently of the panel or which is
18 public information.

19 (c) Any person who, in substantial good faith, participates as a
20 member of the maternal mortality review panel or provides information
21 to further the purposes of the maternal mortality review panel may
22 not be subject to an action for civil damages or other relief as a
23 result of the activity or its consequences.

24 (d) All meetings, proceedings, and deliberations of the maternal
25 mortality review panel may, at the discretion of the maternal
26 mortality review panel, be confidential and may be conducted in
27 executive session.

28 (e) The maternal mortality review panel and the secretary of the
29 department of health may retain identifiable information regarding
30 facilities where maternal deaths, or from which the patient was
31 transferred, occur and geographic information on each case solely for
32 the purposes of trending and analysis over time. All individually
33 identifiable information must be removed before any case review by
34 the panel.

35 (5) The department of health shall review department available
36 data to identify maternal deaths. To aid in determining whether a
37 maternal death was related to or aggravated by the pregnancy, and
38 whether it was preventable, the department of health has the
39 authority to:

1 (a) Request and receive data for specific maternal deaths
2 including, but not limited to, all medical records, autopsy reports,
3 medical examiner reports, coroner reports, and social service
4 records; and

5 (b) Request and receive data as described in (a) of this
6 subsection from health care providers, health care facilities,
7 clinics, laboratories, medical examiners, coroners, professions and
8 facilities licensed by the department of health, local health
9 jurisdictions, the health care authority and its licensees and
10 providers, and the department of social and health services and its
11 licensees and providers.

12 (6) Upon request by the department of health, health care
13 providers, health care facilities, clinics, laboratories, medical
14 examiners, coroners, professions and facilities licensed by the
15 department of health, local health jurisdictions, the health care
16 authority and its licensees and providers, and the department of
17 social and health services and its licensees and providers must
18 provide all medical records, autopsy reports, medical examiner
19 reports, coroner reports, social services records, information and
20 records related to sexually transmitted diseases, and other data
21 requested for specific maternal deaths as provided for in subsection
22 (5) of this section to the department.

23 (7) By July 1, 2017, and biennially thereafter, the maternal
24 mortality review panel must submit a report to the secretary of the
25 department of health and the health care committees of the senate and
26 house of representatives. The report must protect the confidentiality
27 of all decedents and other participants involved in any incident. The
28 report must be distributed to relevant stakeholder groups for
29 performance improvement. Interim results may be shared at the
30 Washington state hospital association coordinated quality improvement
31 program. The report must include the following:

32 (a) A description of the maternal deaths reviewed by the panel
33 during the preceding twenty-four months, including statistics and
34 causes of maternal deaths presented in the aggregate, but the report
35 must not disclose any identifying information of patients, decedents,
36 providers, and organizations involved; and

37 (b) Evidence-based system changes and possible legislation to
38 improve maternal outcomes and reduce preventable maternal deaths in
39 Washington.

1 **Sec. 2.** RCW 42.56.360 and 2014 c 223 s 17 are each amended to
2 read as follows:

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

5 (a) Information obtained by the pharmacy quality assurance
6 commission as provided in RCW 69.45.090;

7 (b) Information obtained by the pharmacy quality assurance
8 commission or the department of health and its representatives as
9 provided in RCW 69.41.044, 69.41.280, and 18.64.420;

10 (c) Information and documents created specifically for, and
11 collected and maintained by a quality improvement committee under RCW
12 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee
13 under RCW 4.24.250, or by a quality assurance committee pursuant to
14 RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW
15 43.70.056, for reporting of health care-associated infections under
16 RCW 43.70.056, a notification of an incident under RCW 70.56.040(5),
17 and reports regarding adverse events under RCW 70.56.020(2)(b),
18 regardless of which agency is in possession of the information and
19 documents;

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

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

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

37 (e) Records of the entity obtained in an action under RCW
38 18.71.300 through 18.71.340;

39 (f) Complaints filed under chapter 18.130 RCW after July 27,
40 1997, to the extent provided in RCW 18.130.095(1);

1 (g) Information obtained by the department of health under
2 chapter 70.225 RCW;

3 (h) Information collected by the department of health under
4 chapter 70.245 RCW except as provided in RCW 70.245.150;

5 (i) Cardiac and stroke system performance data submitted to
6 national, state, or local data collection systems under RCW
7 70.168.150(2)(b);

8 (j) All documents, including completed forms, received pursuant
9 to a wellness program under RCW 41.04.362, but not statistical
10 reports that do not identify an individual; and

11 (k) Data and information exempt from disclosure under RCW
12 43.371.040.

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

15 (3)(a) Documents related to infant mortality reviews conducted
16 pursuant to RCW 70.05.170 are exempt from disclosure as provided for
17 in RCW 70.05.170(3).

18 (b)(i) If an agency provides copies of public records to another
19 agency that are exempt from public disclosure under this subsection
20 (3), those records remain exempt to the same extent the records were
21 exempt in the possession of the originating entity.

22 (ii) For notice purposes only, agencies providing exempt records
23 under this subsection (3) to other agencies may mark any exempt
24 records as "exempt" so that the receiving agency is aware of the
25 exemption, however whether or not a record is marked exempt does not
26 affect whether the record is actually exempt from disclosure.

27 (4) Information and documents related to maternal mortality
28 reviews conducted pursuant to section 1 of this act are confidential
29 and exempt from public inspection and copying.

30 NEW SECTION. Sec. 3. If specific funding for the purposes of
31 this act, referencing this act by bill or chapter number, is not
32 provided by June 30, 2016, in the omnibus appropriations act, this
33 act is null and void.

34 NEW SECTION. Sec. 4. This act expires June 30, 2020."

35 Correct the title.

EFFECT: Adds specificity to legal protections for maternal mortality review panel (review panel) members and materials by: (1) Exempting review panel information, proceedings, records, and opinions from discovery or as evidence in any criminal or civil action; (2) prohibiting persons attending review panel meetings or preparing materials for the review panel from testifying in any civil or criminal action as to the contents of the meeting or materials, unless the person has personal knowledge of the matter that is independent of the review panel; and (3) providing immunity from civil damages to review panel members. Exempts information and documents related to maternal mortality reviews from public inspection and copying and declares that they are confidential.

Eliminates the Department of Health's (Department) authority to obtain adverse event records related to maternal deaths.

Requires, upon request of the Department, identified health care providers, health care facilities, and government agencies and contractors to submit medical records, autopsy reports, medical examiner reports, coroner reports, social services records, information and records related to sexually transmitted diseases, and other requested data related to specific maternal deaths.

Adds null and void clause.

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