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**HOUSE BILL 2716**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Fitzgibbon, Walsh, Ormsby, Bergquist, Stokesbary, Volz, and Tharinger; by request of Department of Retirement Systems

Read first time 01/20/20. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to protecting the confidentiality of retirement  
2 system files and records relating to health information; amending RCW  
3 42.56.360; and adding a new section to chapter 41.04 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.04  
6 RCW to read as follows:

7 Medical information contained in files and records of members of  
8 retirement plans administered by the department of retirement  
9 systems, under the provisions of this title, are confidential and  
10 exempt from public inspection and copying under chapter 42.56 RCW.  
11 However:

12 (1) Representatives of an applicant may review an application  
13 file or receive specific information from an application file with  
14 the signed authorization of the applicant.

15 (2) Health care providers treating or examining applicants  
16 claiming disability retirement benefits under this title, or  
17 physicians giving medical advice to the department of retirement  
18 systems regarding any application, may, at the discretion of the  
19 department of retirement systems, inspect the application files and  
20 records of applicants.

1 (3) At the discretion of the department of retirement systems,  
2 persons rendering assistance to the department at any stage of the  
3 proceedings on any matter pertaining to the administration of this  
4 title may inspect the health information contained in application  
5 files and records of applicants.

6 **Sec. 2.** RCW 42.56.360 and 2016 c 238 s 2 are each amended to  
7 read as follows:

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

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

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

15 (c) Information and documents created specifically for, and  
16 collected and maintained by a quality improvement committee under RCW  
17 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee  
18 under RCW 4.24.250, or by a quality assurance committee pursuant to  
19 RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW  
20 43.70.056, for reporting of health care-associated infections under  
21 RCW 43.70.056, a notification of an incident under RCW 70.56.040(5),  
22 and reports regarding adverse events under RCW 70.56.020(2)(b),  
23 regardless of which agency is in possession of the information and  
24 documents;

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

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

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

4 (e) Records of the entity obtained in an action under RCW  
5 18.71.300 through 18.71.340;

6 (f) Complaints filed under chapter 18.130 RCW after July 27,  
7 1997, to the extent provided in RCW 18.130.095(1);

8 (g) Information obtained by the department of health under  
9 chapter 70.225 RCW;

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

12 (i) Cardiac and stroke system performance data submitted to  
13 national, state, or local data collection systems under RCW  
14 70.168.150(2)(b);

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

18 (k) Data and information exempt from disclosure under RCW  
19 43.371.040; and

20 (l) Medical information contained in files and records of members  
21 of retirement plans administered by the department of retirement  
22 systems, as provided to the department of retirement systems under  
23 section 1 of this act.

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

26 (3)(a) Documents related to infant mortality reviews conducted  
27 pursuant to RCW 70.05.170 are exempt from disclosure as provided for  
28 in RCW 70.05.170(3).

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

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

1           (4) Information and documents related to maternal mortality  
2 reviews conducted pursuant to RCW 70.54.450 are confidential and  
3 exempt from public inspection and copying.

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