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**SENATE BILL 5387**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Becker, Cleveland, Rivers, O'Ban, Short, Bailey, Braun, Wilson, L., Warnick, Zeiger, Van De Wege, and Keiser

Read first time 01/18/19. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to physician credentialing in telemedicine  
2 services; and amending RCW 70.41.230.

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

4 **Sec. 1.** RCW 70.41.230 and 2016 c 68 s 6 are each amended to read  
5 as follows:

6 (1) Except as provided in subsection (3) of this section, prior  
7 to granting or renewing clinical privileges or association of any  
8 physician or hiring a physician, a hospital or facility approved  
9 pursuant to this chapter shall request from the physician and the  
10 physician shall provide the following information:

11 (a) The name of any hospital or facility with or at which the  
12 physician had or has any association, employment, privileges, or  
13 practice during the prior five years: PROVIDED, That the hospital may  
14 request additional information going back further than five years,  
15 and the physician shall use his or her best efforts to comply with  
16 such a request for additional information;

17 (b) Whether the physician has ever been or is in the process of  
18 being denied, revoked, terminated, suspended, restricted, reduced,  
19 limited, sanctioned, placed on probation, monitored, or not renewed  
20 for any professional activity listed in (b)(i) through (x) of this  
21 subsection, or has ever voluntarily or involuntarily relinquished,

1 withdrawn, or failed to proceed with an application for any  
2 professional activity listed in (b)(i) through (x) of this subsection  
3 in order to avoid an adverse action or to preclude an investigation  
4 or while under investigation relating to professional competence or  
5 conduct:

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

7 (ii) Other professional registration or certification in any  
8 jurisdiction;

9 (iii) Specialty or subspecialty board certification;

10 (iv) Membership on any hospital medical staff;

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

13 (vi) Medicare, medicaid, the food and drug administration, the  
14 national institute of health (office of human research protection),  
15 governmental, national, or international regulatory agency, or any  
16 public program;

17 (vii) Professional society membership or fellowship;

18 (viii) Participation or membership in a health maintenance  
19 organization, preferred provider organization, independent practice  
20 association, physician-hospital organization, or other entity;

21 (ix) Academic appointment;

22 (x) Authority to prescribe controlled substances (drug  
23 enforcement agency or other authority);

24 (c) Any pending professional medical misconduct proceedings or  
25 any pending medical malpractice actions in this state or another  
26 state, the substance of the allegations in the proceedings or  
27 actions, and any additional information concerning the proceedings or  
28 actions as the physician deems appropriate;

29 (d) The substance of the findings in the actions or proceedings  
30 and any additional information concerning the actions or proceedings  
31 as the physician deems appropriate;

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

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

37 (2) Except as provided in subsection (3) of this section, prior  
38 to granting privileges or association to any physician or hiring a  
39 physician, a hospital or facility approved pursuant to this chapter  
40 shall request from any hospital with or at which the physician had or

1 has privileges, was associated, or was employed, during the preceding  
2 five years, the following information concerning the physician:

3 (a) Any pending professional medical misconduct proceedings or  
4 any pending medical malpractice actions, in this state or another  
5 state;

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

9 (c) Any information required to be reported by hospitals pursuant  
10 to RCW 18.71.0195.

11 (3) In lieu of the requirements of subsections (1) and (2) of  
12 this section, when granting or renewing credentials and privileges or  
13 association of any physician providing telemedicine or store and  
14 forward services, an originating site hospital may rely on a distant  
15 site hospital's decision to grant or renew credentials and clinical  
16 privileges or association of the physician if the originating site  
17 hospital obtains reasonable assurances, through a written agreement  
18 with the distant site hospital, that all of the following provisions  
19 are met:

20 (a) The distant site hospital providing the telemedicine or store  
21 and forward services is a medicare participating hospital;

22 (b) Any physician providing telemedicine or store and forward  
23 services at the distant site hospital will be fully credentialed and  
24 privileged to provide such services by the distant site hospital;

25 (c) Any physician providing telemedicine or store and forward  
26 services will hold and maintain a valid license to perform such  
27 services issued or recognized by the state of Washington; and

28 (d) With respect to any distant site physician who holds current  
29 credentials and privileges at the originating site hospital whose  
30 patients are receiving the telemedicine or store and forward  
31 services, the originating site hospital has evidence of an internal  
32 review of the distant site physician's performance of these  
33 credentials and privileges and sends the distant site hospital such  
34 performance information for use in the periodic appraisal of the  
35 distant site physician. At a minimum, this information must include  
36 all adverse events, as defined in RCW 70.56.010, that result from the  
37 telemedicine or store and forward services provided by the distant  
38 site physician to the originating site hospital's patients and all  
39 complaints the originating site hospital has received about the  
40 distant site physician.

1 (4) The medical quality assurance commission or the board of  
2 osteopathic medicine and surgery shall be advised within thirty days  
3 of the name of any physician denied staff privileges, association, or  
4 employment on the basis of adverse findings under subsection (1) of  
5 this section.

6 (5) A hospital or facility that receives a request for  
7 information from another hospital or facility pursuant to subsections  
8 (1) through (3) of this section shall provide such information  
9 concerning the physician in question to the extent such information  
10 is known to the hospital or facility receiving such a request,  
11 including the reasons for suspension, termination, or curtailment of  
12 employment or privileges at the hospital or facility. A hospital,  
13 facility, or other person providing such information in good faith is  
14 not liable in any civil action for the release of such information.

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

1 of the department of health to be made regarding the care and  
2 treatment received.

3 (7) Hospitals shall be granted access to information held by the  
4 medical quality assurance commission and the board of osteopathic  
5 medicine and surgery pertinent to decisions of the hospital regarding  
6 credentialing and recredentialing of practitioners.

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

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