

**SB 5666 - S AMD 213**

By Senators Dammeier, Frockt, Becker, Keiser

ADOPTED 03/13/2013

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(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 including disruptive behavior, and  
15 competence in delivering health care services initially and are  
16 periodically thereafter reviewed as part of an evaluation of staff  
17 privileges. For the purposes of this subsection, disruptive behavior  
18 is limited to quality improvement review of professional activities and  
19 not employment matters that are normally retained in an employee file;

20 (c) ((The)) A process for the initial and periodic review of the  
21 credentials, physical and mental capacity, professional conduct  
22 including disruptive behavior, and competence in delivering health care  
23 services of all ((persons)) other health care providers who are  
24 employed or associated with the hospital;

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

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

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

1 (g) Education programs dealing with quality improvement, patient  
2 safety, medication errors, injury prevention, infection control, staff  
3 responsibility to report professional misconduct, the legal aspects of  
4 patient care, improved communication with patients, and causes of  
5 malpractice claims for staff personnel engaged in patient care  
6 activities; and

7 (h) Policies to ensure compliance with the reporting requirements  
8 of this section.

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

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

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

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

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

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

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

1 (8) A coordinated quality improvement program may share information  
2 and documents, including complaints and incident reports, created  
3 specifically for, and collected and maintained by, a quality  
4 improvement committee or a peer review committee under RCW 4.24.250  
5 with one or more other coordinated quality improvement programs  
6 maintained in accordance with this section or RCW 43.70.510, a  
7 coordinated quality improvement committee maintained by an ambulatory  
8 surgical facility under RCW 70.230.070, a quality assurance committee  
9 maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer  
10 review committee under RCW 4.24.250, for the improvement of the quality  
11 of health care services rendered to patients and the identification and  
12 prevention of medical malpractice. The privacy protections of chapter  
13 70.02 RCW and the federal health insurance portability and  
14 accountability act of 1996 and its implementing regulations apply to  
15 the sharing of individually identifiable patient information held by a  
16 coordinated quality improvement program. Any rules necessary to  
17 implement this section shall meet the requirements of applicable  
18 federal and state privacy laws. Information and documents disclosed by  
19 one coordinated quality improvement program to another coordinated  
20 quality improvement program or a peer review committee under RCW  
21 4.24.250 and any information and documents created or maintained as a  
22 result of the sharing of information and documents shall not be subject  
23 to the discovery process and confidentiality shall be respected as  
24 required by subsection (3) of this section, RCW 18.20.390 (6) and (8),  
25 74.42.640 (7) and (9), and 4.24.250.

26 (9) A hospital that operates a nursing home as defined in RCW  
27 18.51.010 may conduct quality improvement activities for both the  
28 hospital and the nursing home through a quality improvement committee  
29 under this section, and such activities shall be subject to the  
30 provisions of subsections (2) through (8) of this section.

31 (10) Violation of this section shall not be considered negligence  
32 per se.

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

35 (1) Prior to granting or renewing clinical privileges or  
36 association of any physician or hiring a physician, a hospital or

1 facility approved pursuant to this chapter shall request from the  
2 physician and the physician shall provide the following information:

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

9 (b) (~~If such association, employment, privilege, or practice was~~  
10 ~~discontinued, the reasons for its discontinuation~~) Whether the  
11 physician has ever been or is in the process of being denied, revoked,  
12 terminated, suspended, restricted, reduced, limited, sanctioned, placed  
13 on probation, monitored, or not renewed for any professional activity  
14 as reported in the Washington practitioner application or successor  
15 application or form, or has ever voluntarily or involuntarily  
16 relinquished, withdrawn, or failed to proceed with an application for  
17 any professional activity as reported in the Washington practitioner  
18 application or successor application or form in order to avoid an  
19 adverse action or to preclude an investigation or while under  
20 investigation relating to professional competence or conduct;

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

26 (d) The substance of the findings in the actions or proceedings and  
27 any additional information concerning the actions or proceedings as the  
28 physician deems appropriate;

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

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

34 (2) Prior to granting privileges or association to any physician or  
35 hiring a physician, a hospital or facility approved pursuant to this  
36 chapter shall request from any hospital with or at which the physician  
37 had or has privileges, was associated, or was employed, during the

1 preceding five years, the following information concerning the  
2 physician:

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

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

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

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

14 (4) A hospital or facility that receives a request for information  
15 from another hospital or facility pursuant to subsections (1) and (2)  
16 of this section shall provide such information concerning the physician  
17 in question to the extent such information is known to the hospital or  
18 facility receiving such a request, including the reasons for  
19 suspension, termination, or curtailment of employment or privileges at  
20 the hospital or facility. A hospital, facility, or other person  
21 providing such information in good faith is not liable in any civil  
22 action for the release of such information.

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

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

11 (6) Hospitals shall be granted access to information held by the  
12 medical quality assurance commission and the board of osteopathic  
13 medicine and surgery pertinent to decisions of the hospital regarding  
14 credentialing and recredentialing of practitioners.

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

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

19 (1) Every ambulatory surgical facility shall maintain a coordinated  
20 quality improvement program for the improvement of the quality of  
21 health care services rendered to patients and the identification and  
22 prevention of medical malpractice. The program shall include at least  
23 the following:

24 (a) The establishment of ((a)) one or more quality improvement  
25 committees with the responsibility to review the services rendered in  
26 the ambulatory surgical facility, both retrospectively and  
27 prospectively, in order to improve the quality of medical care of  
28 patients and to prevent medical malpractice. ((The)) Different quality  
29 improvement committees may be established as a part of the quality  
30 improvement program to review different health care services. Such  
31 committees shall oversee and coordinate the quality improvement and  
32 medical malpractice prevention program and shall ensure that  
33 information gathered pursuant to the program is used to review and to  
34 revise the policies and procedures of the ambulatory surgical facility;

35 (b) A medical staff privileges sanction procedure through which  
36 credentials, physical and mental capacity, and competence in delivering

1 health care services are periodically reviewed as part of an evaluation  
2 of staff privileges;

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

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

10 (e) The maintenance and continuous collection of information  
11 concerning the ambulatory surgical facility's experience with negative  
12 health care outcomes and incidents injurious to patients, patient  
13 grievances, professional liability premiums, settlements, awards, costs  
14 incurred by the ambulatory surgical facility for patient injury  
15 prevention, and safety improvement activities;

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

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

25 (h) Policies to ensure compliance with the reporting requirements  
26 of this section.

27 (2) Any person who, in substantial good faith, provides information  
28 to further the purposes of the quality improvement and medical  
29 malpractice prevention program or who, in substantial good faith,  
30 participates on the quality improvement committee is not subject to an  
31 action for civil damages or other relief as a result of such activity.  
32 Any person or entity participating in a coordinated quality improvement  
33 program that, in substantial good faith, shares information or  
34 documents with one or more other programs, committees, or boards under  
35 subsection (8) of this section is not subject to an action for civil  
36 damages or other relief as a result of the activity. For the purposes  
37 of this section, sharing information is presumed to be in substantial

1 good faith. However, the presumption may be rebutted upon a showing of  
2 clear, cogent, and convincing evidence that the information shared was  
3 knowingly false or deliberately misleading.

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

31 (4) Each quality improvement committee shall, on at least a  
32 semiannual basis, report to the management of the ambulatory surgical  
33 facility, as identified in the facility's application, in which the  
34 committee is located. The report shall review the quality improvement  
35 activities conducted by the committee, and any actions taken as a  
36 result of those activities.

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

1           (6) The medical quality assurance commission, the board of  
2 osteopathic medicine and surgery, or the podiatric medical board, as  
3 appropriate, may review and audit the records of committee decisions in  
4 which a practitioner's privileges are terminated or restricted. Each  
5 ambulatory surgical facility shall produce and make accessible to the  
6 commission or board the appropriate records and otherwise facilitate  
7 the review and audit. Information so gained is not subject to the  
8 discovery process and confidentiality shall be respected as required by  
9 subsection (3) of this section. Failure of an ambulatory surgical  
10 facility to comply with this subsection is punishable by a civil  
11 penalty not to exceed two hundred fifty dollars.

12           (7) The department and any accrediting organization may review and  
13 audit the records of a quality improvement committee or peer review  
14 committee in connection with their inspection and review of the  
15 ambulatory surgical facility. Information so obtained is not subject  
16 to the discovery process, and confidentiality shall be respected as  
17 required by subsection (3) of this section. Each ambulatory surgical  
18 facility shall produce and make accessible to the department the  
19 appropriate records and otherwise facilitate the review and audit.

20           (8) A coordinated quality improvement program may share information  
21 and documents, including complaints and incident reports, created  
22 specifically for, and collected and maintained by, a quality  
23 improvement committee or a peer review committee under RCW 4.24.250  
24 with one or more other coordinated quality improvement programs  
25 maintained in accordance with this section or RCW 43.70.510 or  
26 70.41.200, a quality assurance committee maintained in accordance with  
27 RCW 18.20.390 or 74.42.640, or a peer review committee under RCW  
28 4.24.250, for the improvement of the quality of health care services  
29 rendered to patients and the identification and prevention of medical  
30 malpractice. The privacy protections of chapter 70.02 RCW and the  
31 federal health insurance portability and accountability act of 1996 and  
32 its implementing regulations apply to the sharing of individually  
33 identifiable patient information held by a coordinated quality  
34 improvement program. Any rules necessary to implement this section  
35 shall meet the requirements of applicable federal and state privacy  
36 laws. Information and documents disclosed by one coordinated quality  
37 improvement program to another coordinated quality improvement program  
38 or a peer review committee under RCW 4.24.250 and any information and

1 documents created or maintained as a result of the sharing of  
2 information and documents are not subject to the discovery process and  
3 confidentiality shall be respected as required by subsection (3) of  
4 this section, RCW 18.20.390 (6) and (8), 70.41.200(3), 74.42.640 (7)  
5 and (9), and 4.24.250.

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

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

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

13 (1) Prior to granting or renewing clinical privileges or  
14 association of any practitioner or hiring a practitioner, an ambulatory  
15 surgical facility approved pursuant to this chapter shall request from  
16 the practitioner and the practitioner shall provide the following  
17 information:

18 (a) The name of any hospital, ambulatory surgical facility, or  
19 other facility with or at which the practitioner had or has any  
20 association, employment, privileges, or practice during the prior five  
21 years: PROVIDED, That the ambulatory surgical facility may request  
22 additional information going back further than five years, and the  
23 physician shall use his or her best efforts to comply with such a  
24 request for additional information;

25 (b) (~~If such association, employment, privilege, or practice was~~  
26 ~~discontinued, the reasons for its discontinuation~~) Whether the  
27 physician has ever been or is in the process of being denied, revoked,  
28 terminated, suspended, restricted, reduced, limited, sanctioned, placed  
29 on probation, monitored, or not renewed for any professional activity  
30 as reported in the Washington practitioner application or successor  
31 application or form, or has ever voluntarily or involuntarily  
32 relinquished, withdrawn, or failed to proceed with an application for  
33 any professional activity as reported in the Washington practitioner  
34 application or successor application or form in order to avoid an  
35 adverse action or to preclude an investigation or while under  
36 investigation relating to professional competence or conduct;

1 (c) Any pending professional medical misconduct proceedings or any  
2 pending medical malpractice actions in this state or another state, the  
3 substance of the allegations in the proceedings or actions, and any  
4 additional information concerning the proceedings or actions as the  
5 practitioner deems appropriate;

6 (d) The substance of the findings in the actions or proceedings and  
7 any additional information concerning the actions or proceedings as the  
8 practitioner deems appropriate;

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

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

14 (2) Prior to granting privileges or association to any practitioner  
15 or hiring a practitioner, an ambulatory surgical facility approved  
16 under this chapter shall request from any hospital or ambulatory  
17 surgical facility with or at which the practitioner had or has  
18 privileges, was associated, or was employed, during the preceding five  
19 years, the following information concerning the practitioner:

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

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

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

27 (3) The medical quality assurance commission, board of osteopathic  
28 medicine and surgery, podiatric medical board, or dental quality  
29 assurance commission, as appropriate, shall be advised within thirty  
30 days of the name of any practitioner denied staff privileges,  
31 association, or employment on the basis of adverse findings under  
32 subsection (1) of this section.

33 (4) A hospital, ambulatory surgical facility, or other facility  
34 that receives a request for information from another hospital,  
35 ambulatory surgical facility, or other facility pursuant to subsections  
36 (1) and (2) of this section shall provide such information concerning  
37 the physician in question to the extent such information is known to  
38 the hospital, ambulatory surgical facility, or other facility receiving

1 such a request, including the reasons for suspension, termination, or  
2 curtailment of employment or privileges at the hospital, ambulatory  
3 surgical facility, or facility. A hospital, ambulatory surgical  
4 facility, other facility, or other person providing such information in  
5 good faith is not liable in any civil action for the release of such  
6 information.

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

33 (6) Ambulatory surgical facilities shall be granted access to  
34 information held by the medical quality assurance commission, board of  
35 osteopathic medicine and surgery, or podiatric medical board pertinent  
36 to decisions of the ambulatory surgical facility regarding  
37 credentialing and recredentialing of practitioners.

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

**SB 5666** - S AMD

By Senators Dammeier, Frockt, Becker, Keiser

**ADOPTED 03/13/2013**

3 On page 1, line 3 of the title, after "information;" strike the  
4 remainder of the title and insert "amending RCW 7.71.030, 70.41.230,  
5 70.230.080, and 70.230.140; and reenacting and amending RCW 70.41.200."

EFFECT: (1) Health care professional review bodies may establish one or more quality improvement committees. Different committees may be established as a part of a quality improvement program to review different health care services.

(2) The quality improvement program must also include a process conducted in accordance with medical staff bylaws and rules through which professional conduct will be reviewed as part of an evaluation of staff privileges of health care providers.

(3) Before granting or renewing clinical privileges, a hospital or ambulatory surgical facility must request a physician to provide the names of health care facilities he or she has been associated with for the last five years. The facility may request information older than five years and the physician must use best efforts to comply with the request. The physician must also disclose if there has been adverse action relating to membership in a professional organization.

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