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**SUBSTITUTE HOUSE BILL 1239**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Cody, Schmick, Macri, Harris, Appleton, Thai, Wylie, and Chambers)

1 AN ACT Relating to protecting the confidentiality of health care  
2 quality and peer review discussions to support effective patient  
3 safety; amending RCW 42.30.110; and adding a new section to chapter  
4 70.41 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.41  
7 RCW to read as follows:

8 (1) All meetings, proceedings, and deliberations of the governing  
9 body, its staff or agents, concerning the granting, denial,  
10 revocation, restriction, or other consideration of the status of the  
11 clinical or staff privileges of a physician or other health care  
12 provider as defined in RCW 7.70.020, if such other providers at the  
13 discretion of the governing body are considered for such privileges,  
14 must be confidential and may be conducted in executive session;  
15 however, the final action of the governing body as to the denial,  
16 revocation, or restriction of clinical or staff privileges of a  
17 physician or other health care provider as defined in RCW 7.70.020  
18 must be done in public session.

19 (2) All meetings, proceedings, and deliberations of a quality  
20 improvement committee established under RCW 4.24.250, 43.70.510, or  
21 70.41.200 and all meetings, proceedings, and deliberations of the

1 governing body, its staff or agents, to review the report or the  
2 activities of a quality improvement committee established under RCW  
3 4.24.250, 43.70.510, or 70.41.200 may, at the discretion of the  
4 quality improvement committee or the governing body, be confidential  
5 and may be conducted in executive session. Any review conducted by  
6 the governing body or quality improvement committee, or their staff  
7 or agents, must be subject to the same protections, limitations, and  
8 exemptions that apply to quality improvement committee activities  
9 under RCW 4.24.240, 4.24.250, 43.70.510, and 70.41.200. However, any  
10 final action of the governing body on the report of the quality  
11 improvement committee must be done in public session.

12 (3) For the purposes of this section:

13 (a) "Governing body" means the board or committee of a public  
14 hospital with authority to make final decisions concerning the  
15 granting, denial, revocation, restriction, or other consideration of  
16 the clinical or staff privileges of a physician or other health care  
17 provider, as defined in RCW 7.70.020; and

18 (b) "Public hospital" means any hospital owned or operated by the  
19 state or any of its subdivisions, including the University of  
20 Washington.

21 **Sec. 2.** RCW 42.30.110 and 2017 c 137 s 1 are each amended to  
22 read as follows:

23 (1) Nothing contained in this chapter may be construed to prevent  
24 a governing body from holding an executive session during a regular  
25 or special meeting:

26 (a) (i) To consider matters affecting national security;

27 (ii) To consider, if in compliance with any required data  
28 security breach disclosure under RCW 19.255.010 and 42.56.590, and  
29 with legal counsel available, information regarding the  
30 infrastructure and security of computer and telecommunications  
31 networks, security and service recovery plans, security risk  
32 assessments and security test results to the extent that they  
33 identify specific system vulnerabilities, and other information that  
34 if made public may increase the risk to the confidentiality,  
35 integrity, or availability of agency security or to information  
36 technology infrastructure or assets;

37 (b) To consider the selection of a site or the acquisition of  
38 real estate by lease or purchase when public knowledge regarding such  
39 consideration would cause a likelihood of increased price;

1 (c) To consider the minimum price at which real estate will be  
2 offered for sale or lease when public knowledge regarding such  
3 consideration would cause a likelihood of decreased price. However,  
4 final action selling or leasing public property shall be taken in a  
5 meeting open to the public;

6 (d) To review negotiations on the performance of publicly bid  
7 contracts when public knowledge regarding such consideration would  
8 cause a likelihood of increased costs;

9 (e) To consider, in the case of an export trading company,  
10 financial and commercial information supplied by private persons to  
11 the export trading company;

12 (f) To receive and evaluate complaints or charges brought against  
13 a public officer or employee. However, upon the request of such  
14 officer or employee, a public hearing or a meeting open to the public  
15 shall be conducted upon such complaint or charge;

16 (g) To evaluate the qualifications of an applicant for public  
17 employment or to review the performance of a public employee.  
18 However, subject to RCW 42.30.140(4), discussion by a governing body  
19 of salaries, wages, and other conditions of employment to be  
20 generally applied within the agency shall occur in a meeting open to  
21 the public, and when a governing body elects to take final action  
22 hiring, setting the salary of an individual employee or class of  
23 employees, or discharging or disciplining an employee, that action  
24 shall be taken in a meeting open to the public;

25 (h) To evaluate the qualifications of a candidate for appointment  
26 to elective office. However, any interview of such candidate and  
27 final action appointing a candidate to elective office shall be in a  
28 meeting open to the public;

29 (i) To discuss with legal counsel representing the agency matters  
30 relating to agency enforcement actions, or to discuss with legal  
31 counsel representing the agency litigation or potential litigation to  
32 which the agency, the governing body, or a member acting in an  
33 official capacity is, or is likely to become, a party, when public  
34 knowledge regarding the discussion is likely to result in an adverse  
35 legal or financial consequence to the agency.

36 This subsection (1)(i) does not permit a governing body to hold  
37 an executive session solely because an attorney representing the  
38 agency is present. For purposes of this subsection (1)(i), "potential  
39 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)  
40 concerning:

1 (i) Litigation that has been specifically threatened to which the  
2 agency, the governing body, or a member acting in an official  
3 capacity is, or is likely to become, a party;

4 (ii) Litigation that the agency reasonably believes may be  
5 commenced by or against the agency, the governing body, or a member  
6 acting in an official capacity; or

7 (iii) Litigation or legal risks of a proposed action or current  
8 practice that the agency has identified when public discussion of the  
9 litigation or legal risks is likely to result in an adverse legal or  
10 financial consequence to the agency;

11 (j) To consider, in the case of the state library commission or  
12 its advisory bodies, western library network prices, products,  
13 equipment, and services, when such discussion would be likely to  
14 adversely affect the network's ability to conduct business in a  
15 competitive economic climate. However, final action on these matters  
16 shall be taken in a meeting open to the public;

17 (k) To consider, in the case of the state investment board,  
18 financial and commercial information when the information relates to  
19 the investment of public trust or retirement funds and when public  
20 knowledge regarding the discussion would result in loss to such funds  
21 or in private loss to the providers of this information;

22 (l) To consider proprietary or confidential nonpublished  
23 information related to the development, acquisition, or  
24 implementation of state purchased health care services as provided in  
25 RCW 41.05.026;

26 (m) To consider in the case of the life sciences discovery fund  
27 authority, the substance of grant applications and grant awards when  
28 public knowledge regarding the discussion would reasonably be  
29 expected to result in private loss to the providers of this  
30 information;

31 (n) To consider in the case of a health sciences and services  
32 authority, the substance of grant applications and grant awards when  
33 public knowledge regarding the discussion would reasonably be  
34 expected to result in private loss to the providers of this  
35 information;

36 (o) To consider information regarding staff privileges or quality  
37 improvement committees under section 1 of this act.

38 (2) Before convening in executive session, the presiding officer  
39 of a governing body shall publicly announce the purpose for excluding  
40 the public from the meeting place, and the time when the executive

1 session will be concluded. The executive session may be extended to a  
2 stated later time by announcement of the presiding officer.

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