

RCW 7.115.040 Civil claim for interference with protected health care services. (1)(a) A claim for interference with protected health care services arises when:

(i) Any underlying action is commenced against an aggrieved party in any court, state or federal, in the United States or any of its territories, where liability in the underlying action is based in whole or in part on:

(A) The aggrieved party's provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington;

(B) Conduct occurring in this state; and

(C) A cause of action or criminal liability that is not available under Washington law or the law of another state that is substantially similar to Washington law; or

(ii)(A) Any person in the state of Washington receives a subpoena from any court, state or federal, in the United States or any of its territories, where the information sought concerns the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington; and

(B) Where liability in the underlying action is based in whole or in part on a cause of action or criminal liability that is not available under Washington law or the law of another state that is substantially similar to Washington law.

(b) An underlying action is based on conduct occurring in this state if any part of the acts or omissions that form the basis of liability in the underlying action occur in Washington state, whether or not such acts or omissions are alleged in the action.

(2) A person may maintain a claim for interference with protected health care services under this section if the underlying action is objectively baseless and brought for an improper purpose.

(a) An underlying action is objectively baseless under this section if:

(i) The court in the underlying action lacked jurisdiction over the aggrieved party;

(ii) The underlying action impedes the right to travel; or

(iii) Other factors exist that the court determines demonstrate the objective baselessness of the underlying action.

(b) An underlying action is brought for an improper purpose under this section if:

(i) A purpose of the underlying action is to deter acts or omissions in Washington state that are permitted under the laws of the state of Washington; or

(ii) Other factors exist that the court determines demonstrate the underlying action was brought for an improper purpose.

(3) If a court finds for the aggrieved party in an action asserting a claim for interference with protected health care services authorized by this section, the aggrieved party may recover damages from any party that brought the underlying action. Recoverable damages include:

(a) Actual damages including, but not limited to, costs and reasonable attorneys' fees spent in defending the underlying action;

(b) Costs and reasonable attorneys' fees incurred in bringing an action under this section as may be allowed by the court; and

(c) Statutory damages up to \$10,000 if the underlying action is found to be frivolous.

(4) The provisions of this section do not apply to a judgment entered in another state that is based on an action:

(a) Founded in tort, contract, or statute, and for which a similar claim would exist under the laws of this state, brought by the person who received the protected health care services upon which the original lawsuit was based or the person's authorized legal representative, for damages suffered by the person or damages derived from an individual's loss of consortium of the person;

(b) Founded in contract, and for which a similar claim would exist under the laws of this state, brought or sought to be enforced by a party with a contractual relationship with the person that is the subject of the judgment entered in another state; or

(c) Where no part of the acts that formed the basis for liability occurred in this state. [2023 c 193 § 14.]

Effective date—2023 c 193: See note following RCW 7.115.020.