
HOUSE BILL 3368

State of Washington

60th Legislature

2008 Regular Session

By Representatives Dunn, Ahern, McCune, Walsh, Roach, Schindler, and Warnick

Read first time 02/14/08. Referred to Committee on Judiciary.

1 AN ACT Relating to mandatory reporting of impaired drivers by
2 health care professionals; amending RCW 70.02.050; and adding new
3 sections to chapter 70.02 RCW.

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

5 **Sec. 1.** RCW 70.02.050 and 2007 c 156 s 12 are each amended to read
6 as follows:

7 (1) A health care provider or health care facility may disclose
8 health care information about a patient without the patient's
9 authorization to the extent a recipient needs to know the information,
10 if the disclosure is:

11 (a) To a person who the provider or facility reasonably believes is
12 providing health care to the patient;

13 (b) To any other person who requires health care information for
14 health care education, or to provide planning, quality assurance, peer
15 review, or administrative, legal, financial, actuarial services to, or
16 other health care operations for or on behalf of the health care
17 provider or health care facility; or for assisting the health care
18 provider or health care facility in the delivery of health care and the

1 health care provider or health care facility reasonably believes that
2 the person:

3 (i) Will not use or disclose the health care information for any
4 other purpose; and

5 (ii) Will take appropriate steps to protect the health care
6 information;

7 (c) To any other health care provider or health care facility
8 reasonably believed to have previously provided health care to the
9 patient, to the extent necessary to provide health care to the patient,
10 unless the patient has instructed the health care provider or health
11 care facility in writing not to make the disclosure;

12 (d) To any person if the health care provider or health care
13 facility reasonably believes that disclosure will avoid or minimize an
14 imminent danger to the health or safety of the patient or any other
15 individual, however there is no obligation under this chapter on the
16 part of the provider or facility to so disclose;

17 (e) To immediate family members of the patient, including a
18 patient's state registered domestic partner, or any other individual
19 with whom the patient is known to have a close personal relationship,
20 if made in accordance with good medical or other professional practice,
21 unless the patient has instructed the health care provider or health
22 care facility in writing not to make the disclosure;

23 (f) To a health care provider or health care facility who is the
24 successor in interest to the health care provider or health care
25 facility maintaining the health care information;

26 (g) For use in a research project that an institutional review
27 board has determined:

28 (i) Is of sufficient importance to outweigh the intrusion into the
29 privacy of the patient that would result from the disclosure;

30 (ii) Is impracticable without the use or disclosure of the health
31 care information in individually identifiable form;

32 (iii) Contains reasonable safeguards to protect the information
33 from redisclosure;

34 (iv) Contains reasonable safeguards to protect against identifying,
35 directly or indirectly, any patient in any report of the research
36 project; and

37 (v) Contains procedures to remove or destroy at the earliest
38 opportunity, consistent with the purposes of the project, information

1 that would enable the patient to be identified, unless an institutional
2 review board authorizes retention of identifying information for
3 purposes of another research project;

4 (h) To a person who obtains information for purposes of an audit,
5 if that person agrees in writing to:

6 (i) Remove or destroy, at the earliest opportunity consistent with
7 the purpose of the audit, information that would enable the patient to
8 be identified; and

9 (ii) Not to disclose the information further, except to accomplish
10 the audit or report unlawful or improper conduct involving fraud in
11 payment for health care by a health care provider or patient, or other
12 unlawful conduct by the health care provider;

13 (i) To an official of a penal or other custodial institution in
14 which the patient is detained;

15 (j) To provide directory information, unless the patient has
16 instructed the health care provider or health care facility not to make
17 the disclosure;

18 (k) To fire, police, sheriff, or another public authority, that
19 brought, or caused to be brought, the patient to the health care
20 facility or health care provider if the disclosure is limited to the
21 patient's name, residence, sex, age, occupation, condition, diagnosis,
22 estimated or actual discharge date, or extent and location of injuries
23 as determined by a physician, and whether the patient was conscious
24 when admitted;

25 (l) To federal, state, or local law enforcement authorities and the
26 health care provider, health care facility, or third-party payor
27 believes in good faith that the health care information disclosed
28 constitutes evidence of criminal conduct that occurred on the premises
29 of the health care provider, health care facility, or third-party
30 payor;

31 (m) To another health care provider, health care facility, or
32 third-party payor for the health care operations of the health care
33 provider, health care facility, or third-party payor that receives the
34 information, if each entity has or had a relationship with the patient
35 who is the subject of the health care information being requested, the
36 health care information pertains to such relationship, and the
37 disclosure is for the purposes described in RCW 70.02.010(8) (a) and
38 (b); or

1 (n) For payment.

2 (2) A health care provider shall disclose health care information
3 about a patient without the patient's authorization if the disclosure
4 is:

5 (a) To federal, state, or local public health authorities, to the
6 extent the health care provider is required by law to report health
7 care information; when needed to determine compliance with state or
8 federal licensure, certification or registration rules or laws; or when
9 needed to protect the public health;

10 (b) To federal, state, or local law enforcement authorities to the
11 extent the health care provider is required by law;

12 (c) To federal, state, or local law enforcement authorities, upon
13 receipt of a written or oral request made to a nursing supervisor,
14 administrator, or designated privacy official, in a case in which the
15 patient is being treated or has been treated for a bullet wound,
16 gunshot wound, powder burn, or other injury arising from or caused by
17 the discharge of a firearm, or an injury caused by a knife, an ice
18 pick, or any other sharp or pointed instrument which federal, state, or
19 local law enforcement authorities reasonably believe to have been
20 intentionally inflicted upon a person, or a blunt force injury that
21 federal, state, or local law enforcement authorities reasonably believe
22 resulted from a criminal act, the following information, if known:

23 (i) The name of the patient;

24 (ii) The patient's residence;

25 (iii) The patient's sex;

26 (iv) The patient's age;

27 (v) The patient's condition;

28 (vi) The patient's diagnosis, or extent and location of injuries as
29 determined by a health care provider;

30 (vii) Whether the patient was conscious when admitted;

31 (viii) The name of the health care provider making the
32 determination in (c)(v), (vi), and (vii) of this subsection;

33 (ix) Whether the patient has been transferred to another facility;

34 and

35 (x) The patient's discharge time and date;

36 (d) To federal, state, or local law enforcement authorities, when
37 the health care provider is providing medical care in a health care
38 facility immediately after a motor vehicle accident to a person

1 reasonably believed to be the operator of a motor vehicle involved in
2 the accident and the health care provider becomes aware, as a result of
3 any blood test performed in the course of that treatment, that the
4 person's blood alcohol level meets or exceeds the percent specified in
5 RCW 46.20.308. The health care provider must report the person's name,
6 the blood alcohol level disclosed by the test, and the date and time of
7 the test, to the federal, state, or local law enforcement authorities
8 within five calendar days of the date the test was administered;

9 (e) To county coroners and medical examiners for the investigations
10 of deaths;

11 ((+e)) (f) Pursuant to compulsory process in accordance with RCW
12 70.02.060.

13 (3) All state or local agencies obtaining patient health care
14 information pursuant to this section shall adopt rules establishing
15 their record acquisition, retention, and security policies that are
16 consistent with this chapter.

17 NEW SECTION. Sec. 2. A new section is added to chapter 70.02 RCW
18 to read as follows:

19 Any health care provider participating in good faith in the making
20 of a report under RCW 70.02.050(2)(d) is immune from any liability,
21 civil or criminal, that might otherwise be incurred or imposed with
22 respect to the making or the content of such report.

23 NEW SECTION. Sec. 3. A new section is added to chapter 70.02 RCW
24 to read as follows:

25 (1) In addition to any other reporting requirements, if a health
26 care provider is providing emergency medical care to a person in a
27 health care facility and has reason to believe that the person is under
28 the influence of intoxicating liquor or drugs, is about to drive a
29 motor vehicle on a highway or a premises open to the public, and is a
30 clear and present danger to society, the health care provider may
31 notify, as soon as reasonably possible, the law enforcement agency
32 which has jurisdiction over the health care facility site.

33 (2) The notice shall consist of the name and physical description
34 of the person being treated and the fact that the health care provider
35 believes the person is intoxicated and is about to drive a motor
36 vehicle.

1 (3) The health care provider may inform the person if the health
2 care provider intends to notify the law enforcement agency, but the
3 person's consent is not required.

4 (4) Any health care provider participating in good faith in the
5 making of a report under this section is immune from any liability,
6 civil or criminal, that might otherwise be incurred or imposed with
7 respect to the making or the content of such report.

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