

HOUSE BILL REPORT

HB 1828

*As Reported By House Committee on:
Health Care*

Title: An act relating to the uniform health care information act.

Brief Description: Providing regulations for the disclosure of health care records.

Sponsor(s): Representative Appelwick.

Brief History:

Reported by House Committee on:
Health Care, March 6, 1991, DPS.

**HOUSE COMMITTEE ON
HEALTH CARE**

Majority Report: *That Substitute House Bill No. 1828 be substituted therefor, and the substitute bill do pass.*
Signed by 11 members: Representatives Braddock, Chair; Day, Vice Chair; Moyer, Ranking Minority Member; Casada, Assistant Ranking Minority Member; Cantwell; Edmondson; Franklin; Morris; Paris; Prentice; and Sprenkle.

Staff: John Welsh (786-7133).

Background: Patients sometimes encounter difficulty in obtaining access to their medical and health records. While it is generally established that the health provider is the owner and custodian of health records, courts have held that patients are entitled to reasonable access to their records.

There is no comprehensive statutory law governing the rights and responsibilities of patients and health providers with regard to the confidentiality of patients' health records, and the conditions or situations under which those records can be disclosed.

Generally, patients' health records are considered confidential but the law is unclear with regard to access by third parties for research and financial audit and other purposes, and by family members. Over the past several decades a number of fundamental changes have increased the threat to the confidentiality of health care information. They include: third party payment plans; the use of health

care information for non-health care purposes; the growing involvement of government in all aspects of health care; and the advent of computers and automated information systems. Nationally, these developments have raised major concerns regarding the improper use of patients' health information.

The National Conference of Commissioners on Uniform State Laws developed the Uniform Health Care Information Act in 1984 for consideration by the states, specifying the rights and responsibilities of patients and the providers governing the confidentiality and disclosure of patient health information.

Summary of Substitute Bill: There is a legislative declaration that patients need access to their own health care information to help them make informed health care decisions, and that such information should not be improperly disclosed.

A patient's health care information must not be disclosed by the health care provider without the patient's consent. The patient's consent need not be expressly required where the information is being referred: to another health provider treating the patient; to another person for health education, planning, quality assurance, peer review, actuarial, legal, financial or administrative purposes where the confidentiality is maintained; to minimize an imminent danger to the patient; for bona fide research purposes where the patient is not identified; to auditors; or to penal authorities. However, disclosure to family members, to previous health providers, or for routine directory information purposes cannot be made where the patient objects.

The health provider must disclose patient health information to governmental public health authorities or law enforcement agencies where required by law, or by compulsory process to the courts.

Patients must authorize the disclosure of their health information by the health provider in writing. The authorization is valid for up to 90 days and is revocable. The provider must make the health information available within 15 working days or notify the patient of any delay, and may charge a fee not exceeding the administrative costs of producing it.

Providers may deny access to patients of their health information where it may be injurious to the patient; may violate other confidences; could endanger the life or safety of any individual; where it is compiled solely for

administrative, litigation or quality assurance purposes; or where prohibited by law.

A patient's health care information must not be disclosed by a provider pursuant to compulsory legal process without the patient's consent, or where the patient has first had the opportunity to obtain a protective order from the court that prevents a health provider from complying with a discovery request or compulsory process to produce the health information.

A provider must correct the health information upon request of a patient within 10 days of the request, unless there are delays and the patient is notified of the delay within 21 days with the time when the record can be corrected. If the provider refuses to make the correction, the patient has the right to insert a statement of disagreement with the information.

Providers must post a notice on the premises specifying the rights of access by patients to their health records pursuant to this act.

For violations of this act, a court may award actual, though not incidental, damages, as well as reasonable attorney fees and other expenses, to the prevailing party. Actions for relief must be filed within two years of the discovery of the incident. Violations shall not be deemed violations of the Consumer Protection Act.

Exemptions from the provisions of this chapter are provided for juvenile justice, alcohol and drug abuse treatment, mental health, domestic relations, and sexually transmitted disease treatment records.

Substitute Bill Compared to Original Bill: A number of clarifying amendments are adopted. The exclusion for pharmacists is deleted. Directory information can be disclosed unless the patient objects. Health information can be used for the purposes of investigating unprofessional conduct of health providers. The act is exclusive, except where specific exclusions are provided.

Fiscal Note: Requested February 13, 1991.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: There is a great need for clarifying the rights and responsibilities of patients and health providers, as well as third parties, with regard to the confidentiality of patient records and the conditions under

which they can be disclosed. Patients should be better informed of their rights with the passage of this bill, and health providers can enjoy the discretion allowed by law in dealing with the sensitivities of patient information. Third parties, such as researchers, auditors, and government agencies have access to health records, as well, for legitimate purposes.

Testimony Against: None.

Witnesses: Representative Appelwick, prime sponsor (pro); Andy Dolan, Washington State Medical Association (pro); Les James, Department of Social and Health Services (neutral); Sherman Cox, Department of Health; and Michele Radosevich, Washington State Trial Lawyers Association (pro).