
HOUSE BILL 2371

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By Representatives Campbell, Ballasiotes, Dyer, Padden, Sheldon, Chappell, Mastin, Lemmon, Long, Brough, Wood, Tate and Mielke

Read first time 01/14/94. Referred to Committee on Health Care.

1 AN ACT Relating to disclosure of confidential health information;
2 and amending RCW 70.02.050 and 71.05.390.

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

4 **Sec. 1.** RCW 70.02.050 and 1993 c 448 s 4 are each amended to read
5 as follows:

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

9 (a) To a person who the provider reasonably believes is providing
10 health care to the patient;

11 (b) To any other person who requires health care information for
12 health care education, or to provide planning, quality assurance, peer
13 review, or administrative, legal, financial, or actuarial services to
14 the health care provider; or for assisting the health care provider in
15 the delivery of health care and the health care provider reasonably
16 believes that the person:

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

1 (ii) Will take appropriate steps to protect the health care
2 information;

3 (c) To any other health care provider reasonably believed to have
4 previously provided health care to the patient, to the extent necessary
5 to provide health care to the patient, unless the patient has
6 instructed the health care provider in writing not to make the
7 disclosure;

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

13 ~~(e))~~ Oral, and made to immediate family members of the patient, or
14 any other individual with whom the patient is known to have a close
15 personal relationship, if made in accordance with good medical or other
16 professional practice, unless the patient has instructed the health
17 care provider in writing not to make the disclosure;

18 ~~((f))~~ (e) To a health care provider who is the successor in
19 interest to the health care provider maintaining the health care
20 information;

21 ~~((g))~~ (f) For use in a research project that an institutional
22 review board has determined:

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

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

27 (iii) Contains reasonable safeguards to protect the information
28 from redisclosure;

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

32 (v) Contains procedures to remove or destroy at the earliest
33 opportunity, consistent with the purposes of the project, information
34 that would enable the patient to be identified, unless an institutional
35 review board authorizes retention of identifying information for
36 purposes of another research project;

37 ~~((h))~~ (g) To a person who obtains information for purposes of an
38 audit, if that person agrees in writing to:

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

4 (ii) Not to disclose the information further, except to accomplish
5 the audit or report unlawful or improper conduct involving fraud in
6 payment for health care by a health care provider or patient, or other
7 unlawful conduct by the health care provider;

8 ~~((i))~~ (h) To an official of a penal or other custodial
9 institution in which the patient is detained;

10 ~~((j))~~ (i) To provide directory information, unless the patient
11 has instructed the health care provider not to make the disclosure;

12 ~~((k))~~ (j) In the case of a hospital or health care provider to
13 provide, in cases reported by fire, police, sheriff, or other public
14 authority, name, residence, sex, age, occupation, condition, diagnosis,
15 or extent and location of injuries as determined by a physician, and
16 whether the patient was conscious when admitted.

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

20 (a) To federal, state, or local public health authorities, to the
21 extent the health care provider is required by law to report health
22 care information; when needed to determine compliance with state or
23 federal licensure, certification or registration rules or laws; or when
24 needed to protect the public health;

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

27 (c) Pursuant to compulsory process in accordance with RCW
28 70.02.060;

29 (d) To federal, state, or local law enforcement authorities, if the
30 health care provider has reasonable cause to believe that a patient has
31 threatened, attempted, or inflicted physical harm on another and
32 presents a substantial risk that physical harm will be inflicted on
33 another.

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

1 **Sec. 2.** RCW 71.05.390 and 1993 c 448 s 6 are each amended to read
2 as follows:

3 The fact of admission and all information and records compiled,
4 obtained, or maintained in the course of providing services to either
5 voluntary or involuntary recipients of services at public or private
6 agencies shall be confidential.

7 Information and records may be disclosed only:

8 (1) In communications between qualified professional persons to
9 meet the requirements of this chapter, in the provision of services or
10 appropriate referrals, or in the course of guardianship proceedings.
11 The consent of the patient, or his or her guardian, shall be obtained
12 before information or records may be disclosed by a professional person
13 employed by a facility to a professional person, not employed by the
14 facility, who does not have the medical responsibility for the
15 patient's care or who is not a designated county mental health
16 professional or who is not involved in providing services under the
17 community mental health services act, chapter 71.24 RCW.

18 (2) When the communications regard the special needs of a patient
19 and the necessary circumstances giving rise to such needs and the
20 disclosure is made by a facility providing outpatient services to the
21 operator of a care facility in which the patient resides.

22 (3) When the person receiving services, or his or her guardian,
23 designates persons to whom information or records may be released, or
24 if the person is a minor, when his or her parents make such
25 designation.

26 (4) To the extent necessary for a recipient to make a claim, or for
27 a claim to be made on behalf of a recipient for aid, insurance, or
28 medical assistance to which he or she may be entitled.

29 (5) For either program evaluation or research, or both: PROVIDED,
30 That the secretary of social and health services adopts rules for the
31 conduct of the evaluation or research, or both. Such rules shall
32 include, but need not be limited to, the requirement that all
33 evaluators and researchers must sign an oath of confidentiality
34 substantially as follows:

35 "As a condition of conducting evaluation or research concerning
36 persons who have received services from (fill in the facility, agency,
37 or person) I,, agree not to divulge, publish, or
38 otherwise make known to unauthorized persons or the public any
39 information obtained in the course of such evaluation or research

1 regarding persons who have received services such that the person who
2 received such services is identifiable.

3 I recognize that unauthorized release of confidential information
4 may subject me to civil liability under the provisions of state law.

5 /s/ "

6 (6) To the courts as necessary to the administration of this
7 chapter.

8 (7) To law enforcement officers, public health officers, or
9 personnel of the department of corrections or the indeterminate
10 sentence review board for persons who are the subject of the records
11 and who are committed to the custody of the department of corrections
12 or indeterminate sentence review board which information or records are
13 necessary to carry out the responsibilities of their office. Except
14 for dissemination of information released pursuant to RCW 71.05.425 and
15 4.24.550, regarding persons committed under this chapter under RCW
16 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
17 defined in RCW 9.94A.030, the extent of information that may be
18 released is limited as follows:

19 (a) Only the fact, place, and date of involuntary admission, the
20 fact and date of discharge, and the last known address shall be
21 disclosed upon request; and

22 (b) The law enforcement and public health officers or personnel of
23 the department of corrections or indeterminate sentence review board
24 shall be obligated to keep such information confidential in accordance
25 with this chapter; and

26 (c) Additional information shall be disclosed only after giving
27 notice to said person and his or her counsel and upon a showing of
28 clear, cogent and convincing evidence that such information is
29 necessary and that appropriate safeguards for strict confidentiality
30 are and will be maintained. However, in the event the said person has
31 escaped from custody, said notice prior to disclosure is not necessary
32 and that the facility from which the person escaped shall include an
33 evaluation as to whether the person is of danger to persons or property
34 and has a propensity toward violence.

35 (8) To the attorney of the detained person.

36 (9) To the prosecuting attorney as necessary to carry out the
37 responsibilities of the office under RCW 71.05.330(2) and
38 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access

1 to records regarding the committed person's treatment and prognosis,
2 medication, behavior problems, and other records relevant to the issue
3 of whether treatment less restrictive than inpatient treatment is in
4 the best interest of the committed person or others. Information shall
5 be disclosed only after giving notice to the committed person and the
6 person's counsel.

7 (10) To appropriate federal, state, or local law enforcement
8 agencies and to a person, when the identity of the person is known to
9 the public or private agency, whose health and safety has been
10 threatened, or who is known to have been repeatedly harassed, by the
11 patient. The person may designate a representative to receive the
12 disclosure. The disclosure shall be made by the professional person in
13 charge of the public or private agency or his or her designee and shall
14 include the dates of admission, discharge, authorized or unauthorized
15 absence from the agency's facility, and only such other information
16 that is pertinent to the threat or harassment. The decision to
17 disclose or not shall not result in civil liability for the agency or
18 its employees so long as the decision was reached in good faith and
19 without gross negligence. However, if the public or private agency has
20 reasonable cause to believe that a recipient of services has
21 threatened, attempted, or inflicted physical harm on another and
22 presents a substantial risk that physical harm will be inflicted on
23 another, the public or private agency shall make a disclosure to
24 federal, state, or local law enforcement agencies.

25 (11) To the persons designated in RCW 71.05.425 for the purposes
26 described in that section.

27 (12) Civil liability and immunity for the release of information
28 about a particular person who is committed to the department under RCW
29 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
30 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

31 (13) To a patient's next of kin, guardian, or conservator, if any,
32 in the event of death, as provided in RCW 71.05.400.

33 (14) To the department of health of the purposes of determining
34 compliance with state or federal licensure, certification, or
35 registration rules or laws. However, the information and records
36 obtained under this subsection are exempt from public inspection and
37 copying pursuant to chapter 42.17 RCW.

38 The fact of admission, as well as all records, files, evidence,
39 findings, or orders made, prepared, collected, or maintained pursuant

1 to this chapter shall not be admissible as evidence in any legal
2 proceeding outside this chapter without the written consent of the
3 person who was the subject of the proceeding except in a subsequent
4 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
5 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter
6 10.77 RCW due to incompetency to stand trial or in a civil commitment
7 proceeding pursuant to chapter 71.09 RCW. The records and files
8 maintained in any court proceeding pursuant to this chapter shall be
9 confidential and available subsequent to such proceedings only to the
10 person who was the subject of the proceeding or his or her attorney.
11 In addition, the court may order the subsequent release or use of such
12 records or files only upon good cause shown if the court finds that
13 appropriate safeguards for strict confidentiality are and will be
14 maintained.

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