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HOUSE BILL 2901

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State of Washington                      56th Legislature                      2000 Regular Session

By Representatives Constantine, Santos and Kenney

Read first time . Referred to Committee on .

1            AN ACT Relating to the privacy of medical records; amending RCW  
2 70.02.020, 70.02.050, and 70.02.170; and prescribing penalties.

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

4            **Sec. 1.** RCW 70.02.020 and 1993 c 448 s 2 are each amended to read  
5 as follows:

6            Except as authorized in RCW 70.02.050, (~~a health care provider, an~~  
7 ~~individual who assists a health care provider in the delivery of health~~  
8 ~~care, or an agent and employee of a health care provider~~) no person  
9 may (~~not~~) disclose health care information about a patient to any  
10 other person without the patient's written authorization. A disclosure  
11 made under a patient's written authorization must conform to the  
12 authorization.

13            Health care providers or facilities shall chart all disclosures(~~(~~  
14 ~~except to third party payors,~~) of health care information, such  
15 chartings to become part of the health care information.

16            **Sec. 2.** RCW 70.02.050 and 1998 c 158 s 1 are each amended to read  
17 as follows:

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

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

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

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

14 (ii) Will take appropriate steps to protect the health care  
15 information;

16 (c) To any other health care provider reasonably believed to have  
17 previously provided health care to the patient, to the extent necessary  
18 to provide health care to the patient, unless the patient has  
19 instructed the health care provider in writing not to make the  
20 disclosure;

21 (d) To any person if the health care provider reasonably believes  
22 that disclosure will avoid or minimize an imminent danger to the health  
23 or safety of the patient or any other individual, however there is no  
24 obligation under this chapter on the part of the provider to so  
25 disclose;

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

31 (f) To a health care provider who is the successor in interest to  
32 the health care provider maintaining the health care information;

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

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

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

1 (iii) Contains reasonable safeguards to protect the information  
2 from redisclosure;

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

6 (v) Contains procedures to remove or destroy at the earliest  
7 opportunity, consistent with the purposes of the project, information  
8 that would enable the patient to be identified, unless an institutional  
9 review board authorizes retention of identifying information for  
10 purposes of another research project;

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

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

16 (ii) Not to disclose the information further, except to accomplish  
17 the audit or report unlawful or improper conduct involving fraud in  
18 payment for health care by a health care provider or patient, or other  
19 unlawful conduct by the health care provider;

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

22 (j) To provide directory information, unless the patient has  
23 instructed the health care provider not to make the disclosure;

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

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

32 (a) To federal, state, or local public health authorities, to the  
33 extent the health care provider is required by law to report health  
34 care information(~~(+)~~), or when needed to determine compliance with  
35 state or federal licensure, certification or registration rules or  
36 laws(~~(+ or when needed to protect the public health)~~);

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

1 (c) To county coroners and medical examiners for the investigations  
2 of deaths of patients whose health care information is disclosed;

3 (d) Pursuant to compulsory process in accordance with RCW  
4 70.02.060.

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

9 **Sec. 3.** RCW 70.02.170 and 1991 c 335 s 801 are each amended to  
10 read as follows:

11 (1) A person who has complied with this chapter may maintain an  
12 action for the relief provided in this section against a ~~((health care  
13 provider or facility))~~ person who has not complied with this chapter.

14 (2) The court may order the ~~((health care provider or other))~~  
15 noncomplying person to comply with this chapter. Such relief may  
16 include:

17 (a) One thousand dollars, or actual damages, ((but shall not  
18 include consequential or incidental damages. The court shall award))  
19 whichever is greater, for each violation;

20 (b) Reasonable attorneys' fees and all other expenses reasonably  
21 incurred to the prevailing party; and

22 (c) Such other relief, including an injunction, as the court may  
23 deem appropriate.

24 (3) Any action under this chapter is barred unless the action is  
25 commenced within two years after the cause of action is discovered.

26 (4) A violation of this chapter shall not be deemed a violation of  
27 the consumer protection act, chapter 19.86 RCW.

28 (5) Nothing in this chapter limits the right of a person to recover  
29 damages or other relief under any other applicable law.

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