
HOUSE BILL 3020

State of Washington

56th Legislature

2000 Regular Session

By Representative Fortunato

Read first time 01/25/2000. Referred to Committee on Health Care.

1 AN ACT Relating to disclosure of information regarding treatment or
2 care of minors; amending RCW 70.02.050; and reenacting and amending RCW
3 70.24.105.

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

5 **Sec. 1.** RCW 70.02.050 and 1998 c 158 s 1 are each amended to read
6 as follows:

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

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

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

18 (i) Will not use or disclose the health care information for any
19 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) To a health care provider who is the successor in interest to
19 the health care provider maintaining the health care information;

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

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

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

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

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

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

36 (h) To a person who obtains information for purposes of an audit,
37 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) To an official of a penal or other custodial institution in
9 which the patient is detained;

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

12 (k) In the case of a hospital or health care provider to provide,
13 in cases reported by fire, police, sheriff, or other public authority,
14 name, residence, sex, age, occupation, condition, diagnosis, or extent
15 and location of injuries as determined by a physician, and whether the
16 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) To county coroners and medical examiners for the investigations
28 of deaths;

29 (d) Pursuant to compulsory process in accordance with RCW
30 70.02.060;

31 (e) To the parent or guardian of a minor regarding the treatment or
32 care of the minor, including testing, evaluation, treatment, or
33 counseling concerning drugs, mental problems, sexually transmitted
34 diseases, AIDS, pregnancy, or psychological exams.

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

1 **Sec. 2.** RCW 70.24.105 and 1997 c 345 s 2 and 1997 c 196 s 6 are
2 each reenacted and amended to read as follows:

3 (1) No person may disclose or be compelled to disclose the identity
4 of any person who has investigated, considered, or requested a test or
5 treatment for a sexually transmitted disease, except as authorized by
6 this chapter.

7 (2) No person may disclose or be compelled to disclose the identity
8 of any person upon whom an HIV antibody test is performed, or the
9 results of such a test, nor may the result of a test for any other
10 sexually transmitted disease when it is positive be disclosed. This
11 protection against disclosure of test subject, diagnosis, or treatment
12 also applies to any information relating to diagnosis of or treatment
13 for HIV infection and for any other confirmed sexually transmitted
14 disease. The following persons, however, may receive such information:

15 (a) The subject of the test or the subject's legal representative
16 for health care decisions in accordance with RCW 7.70.065(~~(, with the~~
17 ~~exception of such a representative of a minor child over fourteen years~~
18 ~~of age and otherwise competent));~~

19 (b) Any person who secures a specific release of test results or
20 information relating to HIV or confirmed diagnosis of or treatment for
21 any other sexually transmitted disease executed by the subject or the
22 subject's legal representative for health care decisions in accordance
23 with RCW 7.70.065, with the exception of such a representative of a
24 minor child over fourteen years of age and otherwise competent;

25 (c) The state public health officer, a local public health officer,
26 or the centers for disease control of the United States public health
27 service in accordance with reporting requirements for a diagnosed case
28 of a sexually transmitted disease;

29 (d) A health facility or health care provider that procures,
30 processes, distributes, or uses: (i) A human body part, tissue, or
31 blood from a deceased person with respect to medical information
32 regarding that person; (ii) semen, including that provided prior to
33 March 23, 1988, for the purpose of artificial insemination; or (iii)
34 blood specimens;

35 (e) Any state or local public health officer conducting an
36 investigation pursuant to RCW 70.24.024, provided that such record was
37 obtained by means of court ordered HIV testing pursuant to RCW
38 70.24.340 or 70.24.024;

1 (f) A person allowed access to the record by a court order granted
2 after application showing good cause therefor. In assessing good
3 cause, the court shall weigh the public interest and the need for
4 disclosure against the injury to the patient, to the physician-patient
5 relationship, and to the treatment services. Upon the granting of the
6 order, the court, in determining the extent to which any disclosure of
7 all or any part of the record of any such test is necessary, shall
8 impose appropriate safeguards against unauthorized disclosure. An
9 order authorizing disclosure shall: (i) Limit disclosure to those
10 parts of the patient's record deemed essential to fulfill the objective
11 for which the order was granted; (ii) limit disclosure to those persons
12 whose need for information is the basis for the order; and (iii)
13 include any other appropriate measures to keep disclosure to a minimum
14 for the protection of the patient, the physician-patient relationship,
15 and the treatment services, including but not limited to the written
16 statement set forth in subsection (5) of this section;

17 (g) Local law enforcement agencies to the extent provided in RCW
18 70.24.034;

19 (h) Persons who, because of their behavioral interaction with the
20 infected individual, have been placed at risk for acquisition of a
21 sexually transmitted disease, as provided in RCW 70.24.022, if the
22 health officer or authorized representative believes that the exposed
23 person was unaware that a risk of disease exposure existed and that the
24 disclosure of the identity of the infected person is necessary;

25 (i) A law enforcement officer, fire fighter, health care provider,
26 health care facility staff person, department of correction's staff
27 person, jail staff person, or other persons as defined by the board in
28 rule pursuant to RCW 70.24.340(4), who has requested a test of a person
29 whose bodily fluids he or she has been substantially exposed to,
30 pursuant to RCW 70.24.340(4), if a state or local public health officer
31 performs the test;

32 (j) Claims management personnel employed by or associated with an
33 insurer, health care service contractor, health maintenance
34 organization, self-funded health plan, state-administered health care
35 claims payer, or any other payer of health care claims where such
36 disclosure is to be used solely for the prompt and accurate evaluation
37 and payment of medical or related claims. Information released under
38 this subsection shall be confidential and shall not be released or

1 available to persons who are not involved in handling or determining
2 medical claims payment; and

3 (k) A department of social and health services worker, a child
4 placing agency worker, or a guardian ad litem who is responsible for
5 making or reviewing placement or case-planning decisions or
6 recommendations to the court regarding a child, who is less than
7 fourteen years of age, has a sexually transmitted disease, and is in
8 the custody of the department of social and health services or a
9 licensed child placing agency; this information may also be received by
10 a person responsible for providing residential care for such a child
11 when the department of social and health services or a licensed child
12 placing agency determines that it is necessary for the provision of
13 child care services.

14 (3) No person to whom the results of a test for a sexually
15 transmitted disease have been disclosed pursuant to subsection (2) of
16 this section may disclose the test results to another person except as
17 authorized by that subsection.

18 (4) The release of sexually transmitted disease information
19 regarding an offender or detained person, except as provided in
20 subsection (2)(e) of this section, shall be governed as follows:

21 (a) The sexually transmitted disease status of a department of
22 corrections offender who has had a mandatory test conducted pursuant to
23 RCW 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by
24 department of corrections health care providers and local public health
25 officers to the department of corrections health care administrator or
26 infection control coordinator of the facility in which the offender is
27 housed. The information made available to the health care
28 administrator or the infection control coordinator under this
29 subsection (4)(a) shall be used only for disease prevention or control
30 and for protection of the safety and security of the staff, offenders,
31 and the public. The information may be submitted to transporting
32 officers and receiving facilities, including facilities that are not
33 under the department of corrections' jurisdiction according to the
34 provisions of (d) and (e) of this subsection.

35 (b) The sexually transmitted disease status of a person detained in
36 a jail who has had a mandatory test conducted pursuant to RCW
37 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by the
38 local public health officer to a jail health care administrator or
39 infection control coordinator. The information made available to a

1 health care administrator under this subsection (4)(b) shall be used
2 only for disease prevention or control and for protection of the safety
3 and security of the staff, offenders, detainees, and the public. The
4 information may be submitted to transporting officers and receiving
5 facilities according to the provisions of (d) and (e) of this
6 subsection.

7 (c) Information regarding the sexually transmitted disease status
8 of an offender or detained person is confidential and may be disclosed
9 by a correctional health care administrator or infection control
10 coordinator or local jail health care administrator or infection
11 control coordinator only as necessary for disease prevention or control
12 and for protection of the safety and security of the staff, offenders,
13 and the public. Unauthorized disclosure of this information to any
14 person may result in disciplinary action, in addition to the penalties
15 prescribed in RCW 70.24.080 or any other penalties as may be prescribed
16 by law.

17 (d) Notwithstanding the limitations on disclosure contained in (a),
18 (b), and (c) of this subsection, whenever any member of a jail staff or
19 department of corrections staff has been substantially exposed to the
20 bodily fluids of an offender or detained person, then the results of
21 any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or
22 70.24.370, shall be immediately disclosed to the staff person in
23 accordance with the Washington Administrative Code rules governing
24 employees' occupational exposure to bloodborne pathogens. Disclosure
25 must be accompanied by appropriate counseling for the staff member,
26 including information regarding follow-up testing and treatment.
27 Disclosure shall also include notice that subsequent disclosure of the
28 information in violation of this chapter or use of the information to
29 harass or discriminate against the offender or detainee may result in
30 disciplinary action, in addition to the penalties prescribed in RCW
31 70.24.080, and imposition of other penalties prescribed by law.

32 (e) The staff member shall also be informed whether the offender or
33 detained person had any other communicable disease, as defined in RCW
34 72.09.251(3), when the staff person was substantially exposed to the
35 offender's or detainee's bodily fluids.

36 (f) The test results of voluntary and anonymous HIV testing or HIV-
37 related condition may not be disclosed to a staff person except as
38 provided in subsection (2)(i) of this section and RCW 70.24.340(4). A
39 health care administrator or infection control coordinator may provide

1 the staff member with information about how to obtain the offender's or
2 detainee's test results under subsection (2)(i) of this section and RCW
3 70.24.340(4).

4 (5) Whenever disclosure is made pursuant to this section, except
5 for subsections (2)(a) and (6) of this section, it shall be accompanied
6 by a statement in writing which includes the following or substantially
7 similar language: "This information has been disclosed to you from
8 records whose confidentiality is protected by state law. State law
9 prohibits you from making any further disclosure of it without the
10 specific written consent of the person to whom it pertains, or as
11 otherwise permitted by state law. A general authorization for the
12 release of medical or other information is NOT sufficient for this
13 purpose." An oral disclosure shall be accompanied or followed by such
14 a notice within ten days.

15 (6) The requirements of this section shall not apply to the
16 customary methods utilized for the exchange of medical information
17 among health care providers in order to provide health care services to
18 the patient, nor shall they apply within health care facilities where
19 there is a need for access to confidential medical information to
20 fulfill professional duties.

21 (7) Upon request of the victim, disclosure of test results under
22 this section to victims of sexual offenses under chapter 9A.44 RCW
23 shall be made if the result is negative or positive. The county
24 prosecuting attorney shall notify the victim of the right to such
25 disclosure. Such disclosure shall be accompanied by appropriate
26 counseling, including information regarding follow-up testing.

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