
SENATE BILL 6162

State of Washington

58th Legislature

2004 Regular Session

By Senators Brandland, Pflug and Oke

Read first time 01/14/2004. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the disclosure of health care information for
2 law enforcement purposes without the patient's authorization; amending
3 RCW 70.02.050, 70.02.010, and 68.50.320; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The purpose of this act is to aid law
6 enforcement authorities in combating crime through the rapid
7 identification of all persons who require medical treatment as a result
8 of a criminal act and to assist in the rapid identification of human
9 remains.

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

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

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

17 (b) To any other person who requires health care information for
18 health care education, or to provide planning, quality assurance, peer

1 review, or administrative, legal, financial, or actuarial services to
2 the health care provider; or for assisting the health care provider in
3 the delivery of health care and the health care provider reasonably
4 believes that the person:

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

7 (ii) Will take appropriate steps to protect the health care
8 information;

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

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

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

24 (f) To a health care provider who is the successor in interest to
25 the health care provider 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 not to make the disclosure((÷

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

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

25 (a) To federal, state, or local public health authorities, to the
26 extent the health care provider is required by law to report health
27 care information; when needed to determine compliance with state or
28 federal licensure, certification or registration rules or laws; or when
29 needed to protect the public health;

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

32 (c) To federal, state, or local law enforcement authorities, upon
33 receipt of a written or oral request, in all cases in which the patient
34 is being treated for a bullet wound, gunshot wound, powder burn, or
35 other injury arising from or caused by the discharge of a firearm, or
36 an injury caused by a knife, ice pick, or any other sharp or pointed
37 instrument which appears to have been intentionally inflicted upon a

1 person, or any other injury, including blunt force injury, that the
2 health care provider reasonably believes resulted from a criminal act,
3 the following information, if known:

4 (i) The name of the patient;

5 (ii) The patient's residence;

6 (iii) The patient's sex;

7 (iv) The patient's age;

8 (v) The patient's condition;

9 (vi) The patient's diagnosis, or extent and location of injuries as
10 determined by a physician;

11 (vii) The names of treating physicians and nurses;

12 (viii) Whether the patient was conscious when admitted;

13 (ix) Whether the patient is likely to be transferred to another
14 facility;

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

16 (xi) Any other information that the health care provider deems
17 necessary to protect the safety of the patient or to assist in the
18 identification and apprehension of the person who inflicted the
19 injuries;

20 (d) To county coroners and medical examiners for the investigations
21 of deaths;

22 ~~((d))~~ (e) Pursuant to compulsory process in accordance with RCW
23 70.02.060.

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

28 **Sec. 3.** RCW 70.02.010 and 2002 c 318 s 1 are each amended to read
29 as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

32 (1) "Audit" means an assessment, evaluation, determination, or
33 investigation of a health care provider by a person not employed by or
34 affiliated with the provider to determine compliance with:

35 (a) Statutory, regulatory, fiscal, medical, or scientific
36 standards;

1 (b) A private or public program of payments to a health care
2 provider; or

3 (c) Requirements for licensing, accreditation, or certification.

4 (2) "Directory information" means information disclosing the
5 presence, and for the purpose of identification, the name, residence,
6 sex, and the general health condition of a particular patient who is a
7 patient in a health care facility or who is currently receiving
8 emergency health care in a health care facility.

9 (3) "Federal, state, or local law enforcement authorities" means
10 any agency or authority of the United States, a state, a territory, a
11 political subdivision of a state or territory, or an Indian tribe,
12 empowered by law to:

13 (a) Investigate or conduct an official inquiry into a potential
14 violation of law; or

15 (b) Prosecute or otherwise conduct a criminal, civil, or
16 administrative proceeding arising from an alleged violation of law.

17 (4) "General health condition" means the patient's health status
18 described in terms of "critical," "poor," "fair," "good," "excellent,"
19 or terms denoting similar conditions.

20 ((+4)) (5) "Health care" means any care, service, or procedure
21 provided by a health care provider:

22 (a) To diagnose, treat, or maintain a patient's physical or mental
23 condition; or

24 (b) That affects the structure or any function of the human body.

25 ((+5)) (6) "Health care facility" means a hospital, clinic,
26 nursing home, laboratory, office, or similar place where a health care
27 provider provides health care to patients.

28 ((+6)) (7) "Health care information" means any information,
29 whether oral or recorded in any form or medium, that identifies or can
30 readily be associated with the identity of a patient and directly
31 relates to the patient's health care, including a patient's
32 deoxyribonucleic acid and identified sequence of chemical base pairs.
33 The term includes any record of disclosures of health care information.

34 ((+7)) (8) "Health care provider" means a person who is licensed,
35 certified, registered, or otherwise authorized by the law of this state
36 to provide health care in the ordinary course of business or practice
37 of a profession.

1 (~~(8)~~) (9) "Institutional review board" means any board,
2 committee, or other group formally designated by an institution, or
3 authorized under federal or state law, to review, approve the
4 initiation of, or conduct periodic review of research programs to
5 assure the protection of the rights and welfare of human research
6 subjects.

7 (~~(9)~~) (10) "Maintain," as related to health care information,
8 means to hold, possess, preserve, retain, store, or control that
9 information.

10 (~~(10)~~) (11) "Patient" means an individual who receives or has
11 received health care. The term includes a deceased individual who has
12 received health care.

13 (~~(11)~~) (12) "Person" means an individual, corporation, business
14 trust, estate, trust, partnership, association, joint venture,
15 government, governmental subdivision or agency, or any other legal or
16 commercial entity.

17 (~~(12)~~) (13) "Reasonable fee" means the charges for duplicating or
18 searching the record, but shall not exceed sixty-five cents per page
19 for the first thirty pages and fifty cents per page for all other
20 pages. In addition, a clerical fee for searching and handling may be
21 charged not to exceed fifteen dollars. These amounts shall be adjusted
22 biennially in accordance with changes in the consumer price index, all
23 consumers, for Seattle-Tacoma metropolitan statistical area as
24 determined by the secretary of health. However, where editing of
25 records by a health care provider is required by statute and is done by
26 the provider personally, the fee may be the usual and customary charge
27 for a basic office visit.

28 (~~(13)~~) (14) "Third-party payor" means an insurer regulated under
29 Title 48 RCW authorized to transact business in this state or other
30 jurisdiction, including a health care service contractor, and health
31 maintenance organization; or an employee welfare benefit plan; or a
32 state or federal health benefit program.

33 **Sec. 4.** RCW 68.50.320 and 2001 c 223 s 1 are each amended to read
34 as follows:

35 When a person reported missing has not been found within thirty
36 days of the report, the sheriff, chief of police, county coroner or
37 county medical examiner, or other law enforcement authority initiating

1 and conducting the investigation for the missing person shall ask the
2 missing person's family or next of kin to give written consent to
3 contact the dentist or dentists of the missing person and request the
4 person's dental records.

5 The missing person's dentist or dentists shall provide diagnostic
6 quality copies of the missing person's dental records or original
7 dental records to the sheriff, chief of police, county coroner or
8 county medical examiner, or other law enforcement authority, when
9 presented with the written consent from the missing person's family or
10 next of kin or with a statement from the sheriff, chief of police,
11 county coroner or county medical examiner, or other law enforcement
12 authority that the missing person's family or next of kin could not be
13 located in the exercise of due diligence or that the missing person's
14 family or next of kin refuses to consent to the release of the missing
15 person's dental records and there is reason to believe that the missing
16 person's family or next of kin may have been involved in the missing
17 person's disappearance.

18 When a person reported missing has not been found within thirty
19 days, the sheriff, chief of police, or other law enforcement authority
20 initiating and conducting the investigation for the missing person
21 shall confer with the county coroner or medical examiner prior to the
22 preparation of a missing person's report. After conferring with the
23 coroner or medical examiner, the sheriff, chief of police, or other law
24 enforcement authority shall submit a missing person's report and the
25 dental records received under this section to the dental identification
26 system of the state patrol identification, child abuse, vulnerable
27 adult abuse, and criminal history section on forms supplied by the
28 state patrol for such purpose.

29 When a person reported missing has been found, the sheriff, chief
30 of police, coroner or medical examiner, or other law enforcement
31 authority shall report such information to the state patrol.

32 The dental identification system shall maintain a file of
33 information regarding persons reported to it as missing. The file
34 shall contain the information referred to in this section and such
35 other information as the state patrol finds relevant to assist in the
36 location of a missing person.

37 The files of the dental identification system shall, upon request,

1 be made available to law enforcement agencies attempting to locate
2 missing persons.

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