

# SENATE BILL REPORT

## SB 5054

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As Reported By Senate Committee On:  
Judiciary, February 16, 2005

**Title:** An act relating to patient authorization of disclosure of health care information.

**Brief Description:** Regarding patient authorization of disclosure of health care information.

**Sponsors:** Senators Johnson, Kline and Rockefeller.

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 1/19/05 [w/oRec-JUD].  
Judiciary: 2/1/05, 2/16/05 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 5054 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

**Staff:** Lilah Amos (786-7429)

**Background:** Patients can authorize their health care provider to disclose their health care information to another person by a written and dated instrument. In Washington an authorization is valid, with some exceptions, for only ninety days after the authorization is signed. Concern exists that the ninety-day time limit contained in current state law can invalidate "springing" powers of attorney if the incompetence which triggers the power of attorney occurs more than ninety days after the document was signed.

The present Washington law also fails to comply with new federal requirements. The Health Insurance Portability and Accountability Act (HIPAA) establishes federal standards for validity of authorizations for disclosure of health care information. It requires that a valid authorization contain either an expiration date or an expiration event that relates to the individual or the purpose of the disclosure. HIPAA also authorizes a class of persons to be designated as the provider or recipient of health care information. These requirements are not presently contained in Washington law concerning health care disclosure authorizations.

**Summary of Substitute Bill:** The ninety-day time limit on validity of health care disclosure authorizations is eliminated. The bill brings state law into conformity with HIPAA regulations by requiring that an authorization include an expiration date or event that relates to the individual or to the purpose of the use or disclosure. The bill clarifies that a patient's authorization to disclose health care information is applicable both to health care providers and to health care facilities. The health care information can be transmitted to a designated person or to a designated class of persons. References to third-party payors are eliminated in this statute, as their authorization requirements differ and can be covered elsewhere.

**Substitute Bill Compared to Original Bill:** The original bill was not considered.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** The current ninety-day limitation on validity of health care disclosure authorizations does not comply with federal HIPAA regulations and causes estate planning problems. Changing the law to require that an expiration date be included cures the problems of medical care providers and facilities as well as estate planners.

**Testimony Against:** None.

**Who Testified:** PRO: Douglas C. Lawrence, Washington State Bar Association.