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SENATE BILL 6106

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State of Washington

59th Legislature

2005 Regular Session

By Senator Brandland

Read first time 04/06/2005. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to disclosure of health care information for law  
2 enforcement purposes; amending RCW 70.02.010, 70.02.050, and 68.50.320;  
3 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 in combating crime through the rapid identification of all  
7 persons who require medical treatment as a result of a criminal act and  
8 to assist in the rapid identification of human remains.

9 **Sec. 2.** RCW 70.02.010 and 2002 c 318 s 1 are each amended to read  
10 as follows:

11 The definitions in this section apply throughout this chapter  
12 unless the context clearly requires otherwise.

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

16 (a) Statutory, regulatory, fiscal, medical, or scientific  
17 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 an  
10 officer or employee of any agency or authority of the United States, a  
11 state, a territory, or a political subdivision of a state, a tribe, or  
12 a territory who is empowered by law to: (a) Investigate or conduct an  
13 official inquiry into a potential violation of law; or (b) prosecute or  
14 otherwise conduct a criminal, civil, or administrative proceeding  
15 arising from an alleged violation of law.

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

19 ((+4)) (5) "Health care" means any care, service, or procedure  
20 provided by a health care provider:

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

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

24 ((+5)) (6) "Health care facility" means a hospital, clinic,  
25 nursing home, laboratory, office, or similar place where a health care  
26 provider provides health care to patients.

27 ((+6)) (7) "Health care information" means any information,  
28 whether oral or recorded in any form or medium, that identifies or can  
29 readily be associated with the identity of a patient and directly  
30 relates to the patient's health care, including a patient's  
31 deoxyribonucleic acid and identified sequence of chemical base pairs.  
32 The term includes any record of disclosures of health care information.

33 ((+7)) (8) "Health care provider" means a person who is licensed,  
34 certified, registered, or otherwise authorized by the law of this state  
35 to provide health care in the ordinary course of business or practice  
36 of a profession.

37 ((+8)) (9) "Institutional review board" means any board,  
38 committee, or other group formally designated by an institution, or

1 authorized under federal or state law, to review, approve the  
2 initiation of, or conduct periodic review of research programs to  
3 assure the protection of the rights and welfare of human research  
4 subjects.

5 ~~((9))~~ (10) "Maintain," as related to health care information,  
6 means to hold, possess, preserve, retain, store, or control that  
7 information.

8 ~~((10))~~ (11) "Patient" means an individual who receives or has  
9 received health care. The term includes a deceased individual who has  
10 received health care.

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

15 ~~((12))~~ (13) "Reasonable fee" means the charges for duplicating or  
16 searching the record, but shall not exceed sixty-five cents per page  
17 for the first thirty pages and fifty cents per page for all other  
18 pages. In addition, a clerical fee for searching and handling may be  
19 charged not to exceed fifteen dollars. These amounts shall be adjusted  
20 biennially in accordance with changes in the consumer price index, all  
21 consumers, for Seattle-Tacoma metropolitan statistical area as  
22 determined by the secretary of health. However, where editing of  
23 records by a health care provider is required by statute and is done by  
24 the provider personally, the fee may be the usual and customary charge  
25 for a basic office visit.

26 ~~((13))~~ (14) "Third-party payor" means an insurer regulated under  
27 Title 48 RCW authorized to transact business in this state or other  
28 jurisdiction, including a health care service contractor, and health  
29 maintenance organization; or an employee welfare benefit plan; or a  
30 state or federal health benefit program.

31 **Sec. 3.** RCW 70.02.050 and 1998 c 158 s 1 are each amended to read  
32 as follows:

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

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

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

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

9 (ii) Will take appropriate steps to protect the health care  
10 information;

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

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

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

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

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

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

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

34 (iii) Contains reasonable safeguards to protect the information  
35 from redisclosure;

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

1 (v) Contains procedures to remove or destroy at the earliest  
2 opportunity, consistent with the purposes of the project, information  
3 that would enable the patient to be identified, unless an institutional  
4 review board authorizes retention of identifying information for  
5 purposes of another research project;

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

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

11 (ii) Not to disclose the information further, except to accomplish  
12 the audit or report unlawful or improper conduct involving fraud in  
13 payment for health care by a health care provider or patient, or other  
14 unlawful conduct by the health care provider;

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

17 (j) To provide directory information, unless the patient has  
18 instructed the health care provider not to make the disclosure((+

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

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

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

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

34 (c) To federal, state, or local law enforcement authorities, upon  
35 receipt of a written or oral request, in any cases in which the patient  
36 is being treated or has been treated for a bullet wound, gunshot wound,  
37 powder burn, or other injury arising from or caused by the discharge of  
38 a firearm, or an injury caused by a knife, an ice pick, or any other

1 sharp or pointed instrument which federal, state, or local law  
2 enforcement authorities reasonably believe to have been intentionally  
3 inflicted upon a person, or any other injury, including blunt force  
4 injury, that federal, state, or local law enforcement authorities  
5 reasonably believe resulted from a criminal act, the following  
6 information, if known:

7 (i) The name of the patient;

8 (ii) The patient's residence;

9 (iii) The patient's sex;

10 (iv) The patient's age;

11 (v) The patient's condition;

12 (vi) The patient's diagnosis, or extent and location of injuries as  
13 determined by a health care provider;

14 (vii) Whether the patient was conscious when admitted;

15 (viii) The name of the health care provider making the  
16 determination in (c)(v), (vi), and (vii) of this subsection;

17 (ix) Whether the patient has been transferred to another facility;

18 and

19 (x) The patient's discharge time and date.

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

30 When a person reported missing has not been found within thirty  
31 days of the report, the sheriff, chief of police, county coroner or  
32 county medical examiner, or other law enforcement authority initiating  
33 and conducting the investigation for the missing person shall ask the  
34 missing person's family or next of kin to give written consent to  
35 contact the dentist or dentists of the missing person and request the  
36 person's dental records.

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

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

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

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

33       The files of the dental identification system shall, upon request,  
34 be made available to law enforcement agencies attempting to locate  
35 missing persons.

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