

SENATE BILL REPORT

HB 2025

As Reported by Senate Committee On:
Health & Long-Term Care, March 26, 2009

Title: An act relating to sharing of health care information to promote coordination of behavioral and medical care services.

Brief Description: Sharing health care information.

Sponsors: Representatives Orwall, Hinkle, Dickerson, Green, Appleton, Driscoll, Morrell, Kagi, Van De Wege and Kenney.

Brief History: Passed House: 2/27/09, 94-0.

Committee Activity: Health & Long-Term Care: 3/19/09, 3/26/09 [DPA].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass as amended.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug, Ranking Minority Member; Becker, Fairley, Marr, Murray and Parlette.

Staff: Edith Rice (786-7444)

Background: In Washington, treatment records, with some exceptions, are confidential. They may be released only to persons designated by statute or to other persons designated in an informed written consent of the patient. In some circumstances, treatment records may be released without the consent of the patient. Such records, however, remain confidential. Treatment records may be released without a patient's consent, as follows:

- to a person, organization, or agency as necessary for management or financial audits or program monitoring and evaluation;
- to the Department of Social and Health Services (DSHS) when necessary to be used for billing or collection purposes;
- for research as permitted under statute;
- pursuant to a lawful order of the court;
- to qualified staff members to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;
- to persons working within the treatment facility where the patient is receiving treatment;

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- within the DSHS as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse;
- to a licensed physician who has determined that the life or health of the person is in danger and that treatment without the information could be injurious to the patient's health;
- to a facility that is to receive a person who is involuntarily committed under RCW 71.05;
- to a correctional facility for limited purposes;
- to the person's counsel or guardian ad litem in order to prepare for involuntary commitment proceedings;
- limited information to staff members of non-profit advocacy agencies for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities; or
- the DSHS may release information acquired for billing and collection purposes to coordinate care.

Psychotherapy notes are those recorded (in any medium) by a mental health professional who is documenting a counseling session. They are typically kept separate from the rest of an individual's medical record and do not include information about prescriptions, modalities used, diagnosis or treatment plans, or progress.

Summary of Bill (Recommended Amendments): In addition to the existing statutory provisions for the release of treatment records without a patient's consent, treatment records may be released consistent with HIPAA requirements to mental health professionals, physicians, physician assistants, osteopathic physicians, osteopathic physician assistants, nurses, and naturopaths. Treatment records of a person may be released without their consent to administrative and office support staff designated to obtain medical records of the specifically named licensed professionals. Such treatment records may only be released for the purpose of coordinating care and treatment of that person. Psychotherapy notes may not be released without authorization of the person who is the subject of the request for release of information.

EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended Amendments): Treatment records of a person may be released without their consent to mental health professionals, physicians, physician assistants, osteopathic physicians, osteopathic physician assistants, nurses and naturopaths. Treatment records of a person may be released without their consent to administrative and office support staff designated to obtain medical records of the specifically named licensed professionals.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: Mentally ill persons die at a younger age than persons without mental health issues. Silos of care make it difficult to access appropriate treatment and coordinate services with different providers. We support this bill which will allow providers to coordinate services better. It has often been unclear when providers can share information without a person's consent, but often the inability to share information hurts the client. This bill should allow for better care and coordination of care and should save money.

Persons Testifying: PRO: Representative Orwall, prime sponsor; Dr. Dan Lessler, Harborview Medical Center; Richard Kellogg, DSHS.