

SENATE BILL REPORT

SB 6091

As of February 23, 2012

Title: An act relating to the maintenance of privacy standards by eliminating the department of revenues' authorization to examine medical records.

Brief Description: Concerning the maintenance of privacy standards by eliminating the department of revenues' authorization to examine medical records.

Sponsors: Senator Honeyford.

Brief History:

Committee Activity: Ways & Means: 2/02/12.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

Background: Retention and Production of Tax Records: Every taxpayer liable for a tax or fee administered by Department of Revenue (DOR) must keep complete and adequate records to determine tax liability. Each taxpayer must prepare and preserve all records in a systematic manner conforming to accepted accounting methods and procedures. Such records are to be kept, preserved, and presented upon request of DOR. The records provided to DOR are confidential and privileged. DOR is authorized to issue an administrative summons, requiring production (subpoena) of records and testimony. If a person refuses to obey the summons, DOR must institute contempt of court proceedings in superior court.

Medical Information. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) establishes nationwide standards for the use, disclosure, storage, and transfer of protected health information. Entities covered by HIPAA must have a patient's authorization to use or disclose health care information, unless there is a specified exception. Some exceptions pertain to disclosures for treatment, payment, and health care operations; public health activities; judicial proceedings; law enforcement purposes; and research purposes. HIPAA allows a state to establish standards that are more stringent than its provisions. In Washington, the Uniform Health Care Information Act (UHCIA) governs the disclosure of health care information by health care providers and their agents or employees. UHCIA provides that a health care provider may not disclose health care information about a patient unless there is a statutory exception or a written authorization by the patient. Some exceptions include disclosures for the provision of health care; quality improvement, legal,

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actuarial, and administrative services; research purposes; directory information; public health and law enforcement activities as required by law; and judicial proceedings.

Summary of Bill: Medical records are expressly excluded from the records that DOR may examine and subpoena.

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: PRO: The goal of this legislation is to bring tax administration into alignment with patient privacy. I am working with DOR to clarify the definition of medical records. Physicians guard patient records. We understand that HIPAA prevents disclosure of this information, including to DOR, so express exclusion might not be necessary. Any clarification of medical records in this bill should consider existing similar terms in federal and state law to avoid confusion or unintended consequences.

Persons Testifying: PRO: Senator Honeyford, prime sponsor; Susie Tracy, WA State Medical Assn.