
HOUSE BILL 1563

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Cody, Hinkle, Moeller, Green, and Kenney

Read first time 01/25/11. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to establishing uniformity in the protection of
2 health-related information; amending RCW 70.02.050; reenacting and
3 amending RCW 70.24.105, 71.05.390, and 71.05.630; creating a new
4 section; and repealing RCW 70.24.450.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that Washington state
7 has long been sensitive to the privacy concerns associated with
8 personal health care information. As early as 1973, Washington
9 established protections from disclosure for mental health information
10 and records. In 1988, the AIDS omnibus act included protections for
11 individuals receiving testing for HIV, AIDS, and other sexually
12 transmitted diseases. These protections arose from concerns about the
13 misuse of this information due to the stigma that society attached to
14 these conditions.

15 The legislature finds that, while people facing mental illness or
16 HIV positive status or AIDS continue to face the challenges of their
17 conditions and suffer with their medical care and treatment options,
18 society's views of these diseases have evolved far beyond the fear and
19 indignity that had once been cast upon them.

1 The legislature further finds that in 1991 Washington enacted
2 comprehensive health care information privacy standards for all health
3 information and the federal government subsequently adopted similar
4 national protections with the passage of the health insurance
5 portability and accountability act. As privacy protections have
6 evolved, so has the ability for health technology to facilitate
7 communication among multiple providers in diverse practice settings.
8 Health care providers continue to adopt electronic health records
9 technology which allows them to share patient medical information with
10 other providers to better coordinate medical care through initiatives
11 such as medical homes and accountable care organizations. The
12 existence, however, of multiple privacy standards for physical and
13 mental health information impedes these efforts to integrate care.

14 The legislature, therefore, intends to eliminate the stigma that
15 the law continues to impose upon people with mental illness or HIV
16 positive status or AIDS and improve the coordination of care to these
17 people by establishing a single standard for the protection of all
18 health care information.

19 **Sec. 2.** RCW 70.02.050 and 2007 c 156 s 12 are each amended to read
20 as follows:

21 (1) A health care provider or health care facility may disclose
22 health care information about a patient without the patient's
23 authorization to the extent a recipient needs to know the information,
24 if the disclosure is:

25 (a) To a person who the provider or facility reasonably believes is
26 providing health care to the patient;

27 (b) To any other person who requires health care information for
28 health care education, or to provide planning, quality assurance, peer
29 review, or administrative, legal, financial, actuarial services to, or
30 other health care operations for or on behalf of the health care
31 provider or health care facility; or for assisting the health care
32 provider or health care facility in the delivery of health care and the
33 health care provider or health care facility reasonably believes that
34 the person:

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

1 (ii) Will take appropriate steps to protect the health care
2 information;

3 (c) To any other health care provider or health care facility
4 reasonably believed to have previously provided health care to the
5 patient, to the extent necessary to provide health care to the patient,
6 unless the patient has instructed the health care provider or health
7 care facility in writing not to make the disclosure;

8 (d) To any person if the health care provider or health care
9 facility reasonably believes that disclosure will avoid or minimize an
10 imminent danger to the health or safety of the patient or any other
11 individual, however there is no obligation under this chapter on the
12 part of the provider or facility to so disclose;

13 (e) To immediate family members of the patient, including a
14 patient's state registered domestic partner, or any other individual
15 with whom the patient is known to have a close personal relationship,
16 if made in accordance with good medical or other professional practice,
17 unless the patient has instructed the health care provider or health
18 care facility in writing not to make the disclosure;

19 (f) To a health care provider or health care facility who is the
20 successor in interest to the health care provider or health care
21 facility maintaining the health care information;

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

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

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

28 (iii) Contains reasonable safeguards to protect the information
29 from redisclosure;

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

33 (v) Contains procedures to remove or destroy at the earliest
34 opportunity, consistent with the purposes of the project, information
35 that would enable the patient to be identified, unless an institutional
36 review board authorizes retention of identifying information for
37 purposes of another research project;

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

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

6 (ii) Not to disclose the information further, except to accomplish
7 the audit or report unlawful or improper conduct involving fraud in
8 payment for health care by a health care provider or patient, or other
9 unlawful conduct by the health care provider;

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

12 (j) To provide directory information, unless the patient has
13 instructed the health care provider or health care facility not to make
14 the disclosure;

15 (k) To fire, police, sheriff, or another public authority, that
16 brought, or caused to be brought, the patient to the health care
17 facility or health care provider if the disclosure is limited to the
18 patient's name, residence, sex, age, occupation, condition, diagnosis,
19 estimated or actual discharge date, or extent and location of injuries
20 as determined by a physician, and whether the patient was conscious
21 when admitted;

22 (l) To federal, state, or local law enforcement authorities and the
23 health care provider, health care facility, or third-party payor
24 believes in good faith that the health care information disclosed
25 constitutes evidence of criminal conduct that occurred on the premises
26 of the health care provider, health care facility, or third-party
27 payor;

28 (m) To another health care provider, health care facility, or
29 third-party payor for the health care operations of the health care
30 provider, health care facility, or third-party payor that receives the
31 information, if each entity has or had a relationship with the patient
32 who is the subject of the health care information being requested, the
33 health care information pertains to such relationship, and the
34 disclosure is for the purposes described in RCW 70.02.010(8) (a) and
35 (b); ~~((e))~~

36 (n) For payment;

37 (o) To persons authorized to receive information regarding the
38 identity of the subject of an HIV antibody test or test for any other

1 sexually transmitted disease, the results of such a test, and the
2 diagnosis or treatment of a patient for HIV infection as permitted
3 under RCW 70.24.105; or

4 (p) To persons authorized under chapter 71.05 RCW to receive
5 information and records regarding recipients of mental health-related
6 services.

7 (2) A health care provider shall disclose health care information
8 about a patient without the patient's authorization if the disclosure
9 is:

10 (a) To federal, state, or local public health authorities, to the
11 extent the health care provider is required by law to report health
12 care information; when needed to determine compliance with state or
13 federal licensure, certification or registration rules or laws; or when
14 needed to protect the public health;

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

17 (c) To federal, state, or local law enforcement authorities, upon
18 receipt of a written or oral request made to a nursing supervisor,
19 administrator, or designated privacy official, in a case in which the
20 patient is being treated or has been treated for a bullet wound,
21 gunshot wound, powder burn, or other injury arising from or caused by
22 the discharge of a firearm, or an injury caused by a knife, an ice
23 pick, or any other sharp or pointed instrument which federal, state, or
24 local law enforcement authorities reasonably believe to have been
25 intentionally inflicted upon a person, or a blunt force injury that
26 federal, state, or local law enforcement authorities reasonably believe
27 resulted from a criminal act, the following information, if known:

28 (i) The name of the patient;

29 (ii) The patient's residence;

30 (iii) The patient's sex;

31 (iv) The patient's age;

32 (v) The patient's condition;

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

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

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

- 1 (ix) Whether the patient has been transferred to another facility;
2 and
3 (x) The patient's discharge time and date;
4 (d) To county coroners and medical examiners for the investigations
5 of deaths;
6 (e) Pursuant to compulsory process in accordance with RCW
7 70.02.060.

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

12 **Sec. 3.** RCW 70.24.105 and 1997 c 345 s 2 and 1997 c 196 s 6 are
13 each reenacted and amended to read as follows:

14 ~~(1) ((No person may disclose or be compelled to disclose the
15 identity of any person who has investigated, considered, or requested
16 a test or treatment for a sexually transmitted disease, except as
17 authorized by this chapter.~~

18 ~~(2) No person may disclose or be compelled to disclose the identity
19 of any person upon whom an HIV antibody test is performed, or the
20 results of such a test, nor may the result of a test for any other
21 sexually transmitted disease when it is positive be disclosed. This
22 protection against disclosure of test subject, diagnosis, or treatment
23 also applies to any information relating to diagnosis of or treatment
24 for HIV infection and for any other confirmed sexually transmitted
25 disease.))~~ Information regarding the identity of the subject of an HIV
26 antibody test or test for any other sexually transmitted disease, the
27 results of such a test, and the diagnosis or treatment of a patient for
28 HIV infection must be considered "health care information" as that term
29 is defined in RCW 70.02.010 and subject to the same regulations
30 established under chapter 70.02 RCW, except as otherwise provided in
31 this chapter. In addition to the provisions of chapter 70.02 RCW, the
32 following persons(~~, however,~~) may receive such information:

33 (a) ~~((The subject of the test or the subject's legal representative
34 for health care decisions in accordance with RCW 7.70.065, with the
35 exception of such a representative of a minor child over fourteen years
36 of age and otherwise competent;~~

1 ~~(b) Any person who secures a specific release of test results or~~
2 ~~information relating to HIV or confirmed diagnosis of or treatment for~~
3 ~~any other sexually transmitted disease executed by the subject or the~~
4 ~~subject's legal representative for health care decisions in accordance~~
5 ~~with RCW 7.70.065, with the exception of such a representative of a~~
6 ~~minor child over fourteen years of age and otherwise competent;~~

7 ~~(c) The state public health officer, a local public health officer,~~
8 ~~or the centers for disease control of the United States public health~~
9 ~~service in accordance with reporting requirements for a diagnosed case~~
10 ~~of a sexually transmitted disease;~~

11 ~~(d)) A health facility or health care provider that procures,~~
12 ~~processes, distributes, or uses: (i) A human body part, tissue, or~~
13 ~~blood from a deceased person with respect to medical information~~
14 ~~regarding that person; (ii) semen, including that provided prior to~~
15 ~~March 23, 1988, for the purpose of artificial insemination; or (iii)~~
16 ~~blood specimens;~~

17 ~~((e)) (b) Any state or local public health officer conducting an~~
18 ~~investigation pursuant to RCW 70.24.024, provided that such record was~~
19 ~~obtained by means of court ordered HIV testing pursuant to RCW~~
20 ~~70.24.340 or 70.24.024;~~

21 ~~((f) A person allowed access to the record by a court order~~
22 ~~granted after application showing good cause therefor. In assessing~~
23 ~~good cause, the court shall weigh the public interest and the need for~~
24 ~~disclosure against the injury to the patient, to the physician patient~~
25 ~~relationship, and to the treatment services. Upon the granting of the~~
26 ~~order, the court, in determining the extent to which any disclosure of~~
27 ~~all or any part of the record of any such test is necessary, shall~~
28 ~~impose appropriate safeguards against unauthorized disclosure. An~~
29 ~~order authorizing disclosure shall: (i) Limit disclosure to those~~
30 ~~parts of the patient's record deemed essential to fulfill the objective~~
31 ~~for which the order was granted; (ii) limit disclosure to those persons~~
32 ~~whose need for information is the basis for the order; and (iii)~~
33 ~~include any other appropriate measures to keep disclosure to a minimum~~
34 ~~for the protection of the patient, the physician patient relationship,~~
35 ~~and the treatment services, including but not limited to the written~~
36 ~~statement set forth in subsection (5) of this section;~~

37 ~~(g) Local law enforcement agencies)) (c) Prosecuting attorneys and~~
38 ~~superior courts, to the extent provided in RCW 70.24.034;~~

1 ~~((h))~~ (d) Persons who, because of their behavioral interaction
2 with the infected individual, have been placed at risk for acquisition
3 of a sexually transmitted disease, as provided in RCW 70.24.022, if the
4 health officer or authorized representative believes that the exposed
5 person was unaware that a risk of disease exposure existed and that the
6 disclosure of the identity of the infected person is necessary;

7 ~~((i))~~ (e) A law enforcement officer, firefighter, health care
8 provider, health care facility staff person, department of correction's
9 staff person, jail staff person, or other persons as defined by the
10 board in rule pursuant to RCW 70.24.340(4), who has requested a test of
11 a person whose bodily fluids he or she has been substantially exposed
12 to, pursuant to RCW 70.24.340(4), if a state or local public health
13 officer performs the test;

14 ~~((j) Claims management personnel employed by or associated with an
15 insurer, health care service contractor, health maintenance
16 organization, self-funded health plan, state-administered health care
17 claims payer, or any other payer of health care claims where such
18 disclosure is to be used solely for the prompt and accurate evaluation
19 and payment of medical or related claims. Information released under
20 this subsection shall be confidential and shall not be released or
21 available to persons who are not involved in handling or determining
22 medical claims payment;))~~ and

23 ~~((k))~~ (f) A department of social and health services worker, a
24 child placing agency worker, or a guardian ad litem who is responsible
25 for making or reviewing placement or case-planning decisions or
26 recommendations to the court regarding a child, who is less than
27 fourteen years of age, has a sexually transmitted disease, and is in
28 the custody of the department of social and health services or a
29 licensed child placing agency; this information may also be received by
30 a person responsible for providing residential care for such a child
31 when the department of social and health services or a licensed child
32 placing agency determines that it is necessary for the provision of
33 child care services.

34 ~~((3))~~ (2) No person to whom the results of a test for a sexually
35 transmitted disease have been disclosed pursuant to subsection ~~((2))~~
36 (1) of this section may disclose the test results to another person
37 except as authorized by that subsection.

1 (~~(4)~~) (3) The release of sexually transmitted disease information
2 regarding an offender or detained person, except as provided in
3 subsection (~~(2)(e)~~) (1)(b) of this section, shall be governed as
4 follows:

5 (a) The sexually transmitted disease status of a department of
6 corrections offender who has had a mandatory test conducted pursuant to
7 RCW 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by
8 department of corrections health care providers and local public health
9 officers to the department of corrections health care administrator or
10 infection control coordinator of the facility in which the offender is
11 housed. The information made available to the health care
12 administrator or the infection control coordinator under this
13 subsection (~~(4)~~) (3)(a) shall be used only for disease prevention or
14 control and for protection of the safety and security of the staff,
15 offenders, and the public. The information may be submitted to
16 transporting officers and receiving facilities, including facilities
17 that are not under the department of corrections' jurisdiction
18 according to the provisions of (d) and (e) of this subsection.

19 (b) The sexually transmitted disease status of a person detained in
20 a jail who has had a (~~mandatory~~) mandatory test conducted pursuant to
21 RCW 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by
22 the local public health officer to a jail health care administrator or
23 infection control coordinator. The information made available to a
24 health care administrator under this subsection (~~(4)~~) (3)(b) shall be
25 used only for disease prevention or control and for protection of the
26 safety and security of the staff, offenders, detainees, and the public.
27 The information may be submitted to transporting officers and receiving
28 facilities according to the provisions of (d) and (e) of this
29 subsection.

30 (c) Information regarding the sexually transmitted disease status
31 of an offender or detained person is confidential and may be disclosed
32 by a correctional health care administrator or infection control
33 coordinator or local jail health care administrator or infection
34 control coordinator only as necessary for disease prevention or control
35 and for protection of the safety and security of the staff, offenders,
36 and the public. Unauthorized disclosure of this information to any
37 person may result in disciplinary action, in addition to the penalties

1 prescribed in RCW 70.24.080 or any other penalties as may be prescribed
2 by law.

3 (d) Notwithstanding the limitations on disclosure contained in (a),
4 (b), and (c) of this subsection, whenever any member of a jail staff or
5 department of corrections staff has been substantially exposed to the
6 bodily fluids of an offender or detained person, then the results of
7 any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or
8 70.24.370, shall be immediately disclosed to the staff person in
9 accordance with the Washington Administrative Code rules governing
10 employees' occupational exposure to bloodborne pathogens. Disclosure
11 must be accompanied by appropriate counseling for the staff member,
12 including information regarding follow-up testing and treatment.
13 Disclosure shall also include notice that subsequent disclosure of the
14 information in violation of this chapter or use of the information to
15 harass or discriminate against the offender or detainee may result in
16 disciplinary action, in addition to the penalties prescribed in RCW
17 70.24.080, and imposition of other penalties prescribed by law.

18 (e) The staff member shall also be informed whether the offender or
19 detained person had any other communicable disease, as defined in RCW
20 72.09.251(3), when the staff person was substantially exposed to the
21 offender's or detainee's bodily fluids.

22 (f) The test results of voluntary and anonymous HIV testing or HIV-
23 related condition may not be disclosed to a staff person except as
24 provided in subsection ~~((2)(i))~~ (1)(e) of this section and RCW
25 70.24.340(4). A health care administrator or infection control
26 coordinator may provide the staff member with information about how to
27 obtain the offender's or detainee's test results under subsection
28 ~~((2)(i))~~ (1)(e) of this section and RCW 70.24.340(4).

29 ~~((5))~~ (4) Whenever disclosure is made pursuant to this section,
30 except for subsection ~~((s-(2)(a) and (6))~~ (5) of this section, it shall
31 be accompanied by a statement in writing which includes the following
32 or substantially similar language: "This information has been
33 disclosed to you from records whose confidentiality is protected by
34 state law. State law prohibits you from making any further disclosure
35 of it without the specific written ~~((consent))~~ authorization of the
36 person to whom it pertains, or as otherwise permitted by state law.
37 ~~((A general authorization for the release of medical or other~~

1 ~~information is NOT sufficient for this purpose.~~) An oral disclosure
2 shall be accompanied or followed by such a notice within ten days.

3 ((+6)) (5) The requirements of this section shall not apply to the
4 customary methods utilized for the exchange of medical information
5 among health care providers in order to provide health care services to
6 the patient, nor shall they apply within health care facilities where
7 there is a need for access to confidential medical information to
8 fulfill professional duties.

9 ((+7)) (6) Upon request of the victim, disclosure of test results
10 under this section to victims of sexual offenses under chapter 9A.44
11 RCW shall be made if the result is negative or positive. The county
12 prosecuting attorney shall notify the victim of the right to such
13 disclosure. Such disclosure shall be accompanied by appropriate
14 counseling, including information regarding follow-up testing.

15 **Sec. 4.** RCW 71.05.390 and 2009 c 320 s 3 and 2009 c 217 s 6 are
16 each reenacted and amended to read as follows:

17 Except as provided in this section, RCW 71.05.445, 71.05.630,
18 70.96A.150, 71.05.385, 70.02.050, or pursuant to a valid release under
19 RCW 70.02.030, the fact of admission and all information and records
20 compiled, obtained, or maintained in the course of providing services
21 to either voluntary or involuntary recipients of services at public or
22 private agencies shall be ~~((confidential))~~ considered "health care
23 information" as that term is defined in RCW 70.02.010 and subject to
24 the same regulations established under chapter 70.02 RCW, except as
25 otherwise provided in this chapter.

26 In addition to any disclosures permitted under chapter 70.02 RCW,
27 information and records may be disclosed ~~((only))~~:

28 (1) In communications between qualified professional persons to
29 meet the requirements of this chapter, in the provision of services or
30 appropriate referrals, or in the course of guardianship proceedings.
31 The ~~((consent))~~ authorization of the person, or his or her personal
32 representative or guardian, shall be obtained before information or
33 records may be disclosed by a professional person employed by a
34 facility unless provided to a professional person:

- 35 (a) Employed by the facility;
36 (b) Who has medical responsibility for the patient's care;
37 (c) Who is a designated mental health professional;

1 (d) Who is providing services under chapter 71.24 RCW;

2 (e) Who is employed by a state or local correctional facility where
3 the person is confined or supervised; or

4 (f) Who is providing evaluation, treatment, or follow-up services
5 under chapter 10.77 RCW.

6 (2) When the communications regard the special needs of a patient
7 and the necessary circumstances giving rise to such needs and the
8 disclosure is made by a facility providing services to the operator of
9 a facility in which the patient resides or will reside.

10 (3)(a) When the person receiving services, or his or her guardian,
11 designates persons to whom information or records may be released, or
12 if the person is a minor, when his or her parents make such
13 designation.

14 (b) A public or private agency shall release to a person's next of
15 kin, attorney, personal representative, guardian, or conservator, if
16 any:

17 (i) The information that the person is presently a patient in the
18 facility or that the person is seriously physically ill;

19 (ii) A statement evaluating the mental and physical condition of
20 the patient, and a statement of the probable duration of the patient's
21 confinement, if such information is requested by the next of kin,
22 attorney, personal representative, guardian, or conservator; and

23 (iii) Such other information requested by the next of kin or
24 attorney as may be necessary to decide whether or not proceedings
25 should be instituted to appoint a guardian or conservator.

26 (4) ~~((To the extent necessary for a recipient to make a claim, or
27 for a claim to be made on behalf of a recipient for aid, insurance, or
28 medical assistance to which he or she may be entitled.~~

29 ~~(5)(a) For either program evaluation or research, or both:
30 PROVIDED, That the secretary adopts rules for the conduct of the
31 evaluation or research, or both. Such rules shall include, but need
32 not be limited to, the requirement that all evaluators and researchers
33 must sign an oath of confidentiality substantially as follows:~~

34 ~~"As a condition of conducting evaluation or research concerning
35 persons who have received services from (fill in the facility, agency,
36 or person) I,, agree not to divulge, publish, or
37 otherwise make known to unauthorized persons or the public any~~

1 ~~information obtained in the course of such evaluation or research~~
2 ~~regarding persons who have received services such that the person who~~
3 ~~received such services is identifiable.~~

4 ~~I recognize that unauthorized release of confidential information~~
5 ~~may subject me to civil liability under the provisions of state law.~~

~~/s/~~"

6

7 ~~(b) Nothing in this chapter shall be construed to prohibit the~~
8 ~~compilation and publication of statistical data for use by government~~
9 ~~or researchers under standards, including standards to assure~~
10 ~~maintenance of confidentiality, set forth by the secretary.~~

11 ~~(+6+))~~(a) To the courts as necessary to the administration of this
12 chapter or to a court ordering an evaluation or treatment under chapter
13 10.77 RCW solely for the purpose of preventing the entry of any
14 evaluation or treatment order that is inconsistent with any order
15 entered under this chapter.

16 (b) To a court or its designee in which a motion under chapter
17 10.77 RCW has been made for involuntary medication of a defendant for
18 the purpose of competency restoration.

19 (c) Disclosure under this subsection is mandatory for the purpose
20 of the health insurance portability and accountability act.

21 ~~((+7+))~~ (5)(a) When a mental health professional is requested by a
22 representative of a law enforcement or corrections agency, including a
23 police officer, sheriff, community corrections officer, a municipal
24 attorney, or prosecuting attorney to undertake an investigation or
25 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the
26 mental health professional shall, if requested to do so, advise the
27 representative in writing of the results of the investigation including
28 a statement of reasons for the decision to detain or release the person
29 investigated. Such written report shall be submitted within seventy-
30 two hours of the completion of the investigation or the request from
31 the law enforcement or corrections representative, whichever occurs
32 later.

33 (b) Disclosure under this subsection is mandatory for the purposes
34 of the health insurance portability and accountability act.

35 ~~((+8+))~~ (6) To the attorney of the detained person.

1 ~~((+9))~~ (7) To the prosecuting attorney as necessary to carry out
2 the responsibilities of the office under RCW 71.05.330(2) and
3 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
4 to records regarding the committed person's treatment and prognosis,
5 medication, behavior problems, and other records relevant to the issue
6 of whether treatment less restrictive than inpatient treatment is in
7 the best interest of the committed person or others. Information shall
8 be disclosed only after giving notice to the committed person and the
9 person's counsel.

10 ~~((+10))~~ (8)(a) To appropriate law enforcement agencies and to a
11 person, when the identity of the person is known to the public or
12 private agency, whose health and safety has been threatened, or who is
13 known to have been repeatedly harassed, by the patient. The person may
14 designate a representative to receive the disclosure. The disclosure
15 shall be made by the professional person in charge of the public or
16 private agency or his or her designee and shall include the dates of
17 commitment, admission, discharge, or release, authorized or
18 unauthorized absence from the agency's facility, and only such other
19 information that is pertinent to the threat or harassment. The
20 decision to disclose or not shall not result in civil liability for the
21 agency or its employees so long as the decision was reached in good
22 faith and without gross negligence.

23 (b) Disclosure under this subsection is mandatory for the purposes
24 of the health insurance portability and accountability act.

25 ~~((+11))~~ (9)(a) To appropriate corrections and law enforcement
26 agencies all necessary and relevant information in the event of a
27 crisis or emergent situation that poses a significant and imminent risk
28 to the public. The decision to disclose or not shall not result in
29 civil liability for the mental health service provider or its employees
30 so long as the decision was reached in good faith and without gross
31 negligence.

32 (b) Disclosure under this subsection is mandatory for the purposes
33 of the health insurance portability and accountability act.

34 ~~((+12))~~ (10) To the persons designated in RCW 71.05.425 and
35 71.05.385 for the purposes described in those sections.

36 ~~((+13))~~ (11) Civil liability and immunity for the release of
37 information about a particular person who is committed to the

1 department under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal
2 of a sex offense as defined in RCW 9.94A.030, is governed by RCW
3 4.24.550.

4 ~~((14))~~ (12) Upon the death of a person, his or her next of kin,
5 personal representative, guardian, or conservator, if any, shall be
6 notified.

7 Next of kin who are of legal age and competent shall be notified
8 under this section in the following order: Spouse, parents, children,
9 brothers and sisters, and other relatives according to the degree of
10 relation. Access to all records and information compiled, obtained, or
11 maintained in the course of providing services to a deceased patient
12 shall be governed by RCW 70.02.140.

13 ~~((15) To the department of health for the purposes of determining
14 compliance with state or federal licensure, certification, or
15 registration rules or laws. However, the information and records
16 obtained under this subsection are exempt from public inspection and
17 copying pursuant to chapter 42.56 RCW.~~

18 ~~(16))~~ (13) To mark headstones or otherwise memorialize patients
19 interred at state hospital cemeteries. The department of social and
20 health services shall make available the name, date of birth, and date
21 of death of patients buried in state hospital cemeteries fifty years
22 after the death of a patient.

23 ~~((17))~~ (14) To law enforcement officers and to prosecuting
24 attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The
25 extent of information that may be released is limited as follows:

26 (a) Only the fact, place, and date of involuntary commitment, an
27 official copy of any order or orders of commitment, and an official
28 copy of any written or oral notice of ineligibility to possess a
29 firearm that was provided to the person pursuant to RCW 9.41.047(1),
30 shall be disclosed upon request;

31 (b) The law enforcement and prosecuting attorneys may only release
32 the information obtained to the person's attorney as required by court
33 rule and to a jury or judge, if a jury is waived, that presides over
34 any trial at which the person is charged with violating RCW
35 9.41.040(2)(a)(ii);

36 (c) Disclosure under this subsection is mandatory for the purposes
37 of the health insurance portability and accountability act.

1 (~~(18)~~) (15) When a patient would otherwise be subject to the
2 provisions of this section and disclosure is necessary for the
3 protection of the patient or others due to his or her unauthorized
4 disappearance from the facility, and his or her whereabouts is unknown,
5 notice of such disappearance, along with relevant information, may be
6 made to relatives, the department of corrections when the person is
7 under the supervision of the department, and governmental law
8 enforcement agencies designated by the physician or psychiatric
9 advanced registered nurse practitioner in charge of the patient or the
10 professional person in charge of the facility, or his or her
11 professional designee.

12 Except as otherwise provided in this chapter, the uniform health
13 care information act, chapter 70.02 RCW, applies to all records and
14 information compiled, obtained, or maintained in the course of
15 providing services.

16 (~~(19)~~) (16) The fact of admission, as well as all records, files,
17 evidence, findings, or orders made, prepared, collected, or maintained
18 pursuant to this chapter shall not be admissible as evidence in any
19 legal proceeding outside this chapter without the written consent of
20 the person who was the subject of the proceeding except as provided in
21 RCW 71.05.385, in a subsequent criminal prosecution of a person
22 committed pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges
23 that were dismissed pursuant to chapter 10.77 RCW due to incompetency
24 to stand trial, in a civil commitment proceeding pursuant to chapter
25 71.09 RCW, or, in the case of a minor, a guardianship or dependency
26 proceeding. The records and files maintained in any court proceeding
27 pursuant to this chapter shall be confidential and available subsequent
28 to such proceedings only to the person who was the subject of the
29 proceeding or his or her attorney. In addition, the court may order
30 the subsequent release or use of such records or files only upon good
31 cause shown if the court finds that appropriate safeguards for strict
32 confidentiality are and will be maintained.

33 **Sec. 5.** RCW 71.05.630 and 2009 c 398 s 1, 2009 c 320 s 5, and 2009
34 c 217 s 8 are each reenacted and amended to read as follows:

35 (1) Except as otherwise provided by law, all treatment records
36 shall remain confidential pursuant to chapter 70.02 RCW and may be
37 released only to the persons designated in this section, to persons

1 authorized to receive the records under chapter 70.02 RCW, or to other
2 persons designated in ((an informed written consent)) a disclosure
3 authorization of the patient.

4 (2) Treatment records of a person may be released without
5 ((informed written consent)) a disclosure authorization of the patient
6 in the following circumstances:

7 (a) ((To a person, organization, or agency as necessary for
8 management or financial audits, or program monitoring and evaluation.
9 Information obtained under this subsection shall remain confidential
10 and may not be used in a manner that discloses the name or other
11 identifying information about the person whose records are being
12 released.

13 (b) To the department, the director of regional support networks,
14 or a qualified staff member designated by the director only when
15 necessary to be used for billing or collection purposes. The
16 information shall remain confidential.

17 ((c)) For purposes of research as permitted in chapter 42.48 RCW.

18 ((d)) (b) Pursuant to lawful order of a court.

19 ((e)) (c) To qualified staff members of the department, to the
20 director of regional support networks, to resource management services
21 responsible for serving a patient, or to service providers designated
22 by resource management services as necessary to determine the progress
23 and adequacy of treatment and to determine whether the person should be
24 transferred to a less restrictive or more appropriate treatment
25 modality or facility. The information shall remain confidential.

26 ((f) Within the treatment facility where the patient is receiving
27 treatment, confidential information may be disclosed to persons
28 employed, serving in bona fide training programs, or participating in
29 supervised volunteer programs, at the facility when it is necessary to
30 perform their duties.

31 ((g)) (d) Within the department as necessary to coordinate
32 treatment for mental illness, developmental disabilities, alcoholism,
33 or drug abuse of persons who are under the supervision of the
34 department.

35 ((h) To a licensed physician or psychiatric advanced registered
36 nurse practitioner who has determined that the life or health of the
37 person is in danger and that treatment without the information

1 contained in the treatment records could be injurious to the patient's
2 health. Disclosure shall be limited to the portions of the records
3 necessary to meet the medical emergency.

4 ~~(i) Consistent with the requirements of the health information~~
5 ~~portability and accountability act, to a licensed mental health~~
6 ~~professional, as defined in RCW 71.05.020, or a health care~~
7 ~~professional licensed under chapter 18.71, 18.71A, 18.57, 18.57A,~~
8 ~~18.79, or 18.36A RCW who is providing care to a person, or to whom a~~
9 ~~person has been referred for evaluation or treatment, to assure~~
10 ~~coordinated care and treatment of that person. Psychotherapy notes, as~~
11 ~~defined in 45 C.F.R. Sec. 164.501, may not be released without~~
12 ~~authorization of the person who is the subject of the request for~~
13 ~~release of information.~~

14 ~~(j) To administrative and office support staff designated to obtain~~
15 ~~medical records for those licensed professionals listed in (i) of this~~
16 ~~subsection.~~

17 ~~(k))~~ (e) To a facility that is to receive a person who is
18 involuntarily committed under this chapter ((71.05-RCW)), or upon
19 transfer of the person from one treatment facility to another. The
20 release of records under this subsection shall be limited to the
21 treatment records required by law, a record or summary of all somatic
22 treatments, and a discharge summary. The discharge summary may include
23 a statement of the patient's problem, the treatment goals, the type of
24 treatment which has been provided, and recommendation for future
25 treatment, but may not include the patient's complete treatment record.

26 ~~((l))~~ (f) To the person's counsel or guardian ad litem, without
27 modification, at any time in order to prepare for involuntary
28 commitment or recommitment proceedings, reexaminations, appeals, or
29 other actions relating to detention, admission, commitment, or
30 patient's rights under this chapter ((71.05-RCW)).

31 ~~((m))~~ (g) To staff members of the protection and advocacy agency
32 or to staff members of a private, nonprofit corporation for the purpose
33 of protecting and advocating the rights of persons with mental
34 disorders or developmental disabilities. Resource management services
35 may limit the release of information to the name, birthdate, and county
36 of residence of the patient, information regarding whether the patient
37 was voluntarily admitted, or involuntarily committed, the date and
38 place of admission, placement, or commitment, the name and address of

1 a guardian of the patient, and the date and place of the guardian's
2 appointment. Any staff member who wishes to obtain additional
3 information shall notify the patient's resource management services in
4 writing of the request and of the resource management services' right
5 to object. The staff member shall send the notice by mail to the
6 guardian's address. If the guardian does not object in writing within
7 fifteen days after the notice is mailed, the staff member may obtain
8 the additional information. If the guardian objects in writing within
9 fifteen days after the notice is mailed, the staff member may not
10 obtain the additional information.

11 ~~((n) For purposes of coordinating health care, the department may
12 release without informed written consent of the patient, information
13 acquired for billing and collection purposes as described in (b) of
14 this subsection to all current treating providers of the patient with
15 prescriptive authority who have written a prescription for the patient
16 within the last twelve months. The department shall notify the patient
17 that billing and collection information has been released to named
18 providers, and provide the substance of the information released and
19 the dates of such release. The department shall not release
20 counseling, inpatient psychiatric hospitalization, or drug and alcohol
21 treatment information without a signed written release from the
22 client.))~~

23 (3) Whenever federal law or federal regulations restrict the
24 release of information contained in the treatment records of any
25 patient who receives treatment for chemical dependency, the department
26 may restrict the release of the information as necessary to comply with
27 federal law and regulations.

28 NEW SECTION. **Sec. 6.** RCW 70.24.450 (Confidentiality--Reports--
29 Unauthorized disclosures) and 1999 c 391 s 3 are each repealed.

--- END ---