

**SHB 1679 - H AMD 304**

By Representative Cody

ADOPTED 03/11/2013

1        On page 4, line 37, after "information." insert "For health care  
2 information maintained by a hospital as defined in RCW 70.41.020 or a  
3 health care facility or health care provider that participates with a  
4 hospital in an organized health care arrangement defined under federal  
5 law, "information and records related to mental health services" is  
6 limited to information and records of services provided by a mental  
7 health professional or information and records of services created by  
8 a hospital-operated community mental health program as defined in RCW  
9 71.24.025(6)."

10        On page 5, line 22, after "71.05.020" strike "and" and insert "or"

11        On page 8, beginning on line 25, after "(a)" strike all material  
12 through "(i)" on line 27

13        On page 8, at the beginning of line 28, strike "~~((b))~~ (ii)" and  
14 insert "(b)"

15        On page 8, beginning on line 30, strike all material through  
16 "services" on line 31 and insert "(c) Incident to a use or disclosure  
17 that is otherwise permitted or required"

18        On page 8, at the beginning of line 32, strike "~~((d))~~ (iv)" and  
19 insert "(d)"

20        On page 8, at the beginning of line 35, strike "~~((e))~~ (v)" and  
21 insert "(e)"

1 On page 8, at the beginning of line 36, strike "~~((f))~~ (vi)" and  
2 insert "(f)"

3 On page 9, at the beginning of line 1, strike "~~((g))~~ (b)" and  
4 insert "(g)"

5 On page 9, at the beginning of line 3, strike "~~((h))~~ (c)" and  
6 insert "(h)"

7 On page 9, at the beginning of line 5, strike "~~((and  
8 i))~~ (d)" and insert "~~((and))~~  
9 (i)"

10 On page 9, at the beginning of line 9, strike "(e)" and insert  
11 "(j)"

12 On page 9, line 14, after "diseases" insert "which are addressed in  
13 section 6 of this act"

14 On page 11, line 33, after "diseases," insert "unless otherwise  
15 authorized in section 6 of this act,"

16 On page 13, line 5, after "(1)" strike "A" and insert "In addition  
17 to the disclosures authorized by RCW 70.02.050 and section 5 of this  
18 act, a"

19 On page 13, line 8, after "services" insert "which are addressed by  
20 sections 6 through 10 of this act"

21 On page 14, line 25, after "(2)" strike "A" and insert "In addition  
22 to the disclosures required by RCW 70.02.050 and section 5 of this act,  
23 a"

24 On page 14, line 27, after "services" insert "which are addressed  
25 by sections 6 through 10 of this act"

26 On page 16, line 4, after "(2)" strike "A" and insert "In addition

1 to the disclosures required by RCW 70.02.050 and section 4 of this act,  
2 a"

3 On page 16, line 6, after "if" strike "the" and insert "  
4 (a) The"

5 On page 16, line 7, after "deaths" insert "; or  
6 (b) The disclosure is to a procurement organization or person to  
7 whom a body part passes for the purpose of examination necessary to  
8 assure the medical suitability of the body part"

9 On page 20, after line 15, insert the following:

10 "(7) A person, including a health care facility or health care  
11 provider, shall disclose the identity of any person who has  
12 investigated, considered, or requested a test or treatment for a  
13 sexually transmitted disease and information and records related to  
14 sexually transmitted diseases to federal, state, or local public health  
15 authorities, to the extent the health care provider is required by law  
16 to report health care information; when needed to determine compliance  
17 with state or federal certification or registration rules or laws; or  
18 when needed to protect the public health. Any health care information  
19 obtained under this subsection is exempt from public inspection and  
20 copying pursuant to chapter 42.56 RCW."

21 On page 26, line 11, after "client" insert ";

22 (z)(i) To the secretary of social and health services for either  
23 program evaluation or research, or both so long as the secretary adopts  
24 rules for the conduct of the evaluation or research, or both. Such  
25 rules must include, but need not be limited to, the requirement that  
26 all evaluators and researchers sign an oath of confidentiality  
27 substantially as follows:

28 "As a condition of conducting evaluation or research concerning  
29 persons who have received services from (fill in the facility, agency,  
30 or person) I, . . . ., agree not to divulge, publish, or otherwise  
31 make known to unauthorized persons or the public any information  
32 obtained in the course of such evaluation or research regarding persons  
33 who have received services such that the person who received such  
34 services is identifiable.

1 I recognize that unauthorized release of confidential information  
2 may subject me to civil liability under the provisions of state law.  
3 /s/ . . . . ."

4 (ii) Nothing in this chapter may be construed to prohibit the  
5 compilation and publication of statistical data for use by government  
6 or researchers under standards, including standards to assure  
7 maintenance of confidentiality, set forth by the secretary"

8 On page 34, beginning on line 29, after "not" strike all material  
9 through "aggregated" on line 32 and insert ":

- 10 (1) Use or disclose health care information for marketing or fund-  
11 raising purposes, unless permitted by federal law; or
- 12 (2) Sell health care information to a third party, except in a form  
13 that is deidentified and aggregated"

14 Beginning on page 34, line 35, strike all material through  
15 "records." on page 36, line 35 and insert the following:

16 "(1)(a) Before service of a discovery request or compulsory process  
17 on a ((~~health care provider~~)) hospital as defined in RCW 70.41.020 for  
18 health care information, an attorney shall provide advance notice to  
19 the ((~~health care provider~~)) hospital and the patient or the patient's  
20 attorney involved through service of process or first-class mail,  
21 indicating the ((~~health care provider~~)) hospital from whom the  
22 information is sought, what health care information is sought, and the  
23 date by which a protective order must be obtained to prevent the  
24 ((~~health care provider~~)) hospital from complying. Such date shall give  
25 the patient and the ((~~health care provider~~)) hospital adequate time to  
26 seek a protective order, but in no event be less than fourteen days  
27 since the date of service or delivery to the patient and the ((~~health~~  
28 ~~care provider~~)) hospital of the foregoing. Thereafter the request for  
29 discovery or compulsory process shall be served on the ((~~health care~~  
30 ~~provider~~)) hospital.

31 ((~~+2~~)) (b) Without the written consent of the patient, the  
32 ((~~health care provider~~)) hospital may not disclose the health care  
33 information sought under ((~~subsection (1)~~)) (a) of this ((~~section~~))  
34 subsection if the requestor has not complied with the requirements of  
35 ((~~subsection (1)~~)) (a) of this ((~~section~~)) subsection. In the absence  
36 of a protective order issued by a court of competent jurisdiction

1 forbidding compliance, the (~~health care provider~~) hospital shall  
2 disclose the information in accordance with this chapter. In the case  
3 of compliance, the request for discovery or compulsory process shall be  
4 made a part of the patient record.

5 ~~((3))~~ (c) Production of health care information under this  
6 section, in and of itself, does not constitute a waiver of any  
7 privilege, objection, or defense existing under other law or rule of  
8 evidence or procedure.

9 (2)(a) A discovery request or compulsory process for health care  
10 information from an entity other than a hospital must be made in  
11 accordance with the appropriate civil rules of superior court and  
12 include service of a copy of the subpoena on the patient whose records  
13 are being sought for disclosure.

14 (b) Upon receipt of such a request or process, the health care  
15 provider shall provide a copy to the patient at the patient's last  
16 known address, to the patient's attorney, if known, unless after  
17 reasonable inquiry the health care provider is unable to determine the  
18 last known address of the patient.

19 (c) On sending a copy of the request or process as provided in (b)  
20 of this subsection, the health care provider has no further obligation  
21 to assert a state or federal privilege pertaining to the records or to  
22 appear or respond to a motion to compel production of records, and  
23 shall produce the records if ordered by a court. If an objection is  
24 timely filed by the patient, the patient or the patient's attorney is  
25 responsible for asserting or waiving any state or federal privilege  
26 that pertains to the records."

27 On page 36, line 8, after "act" insert "that are not health care  
28 providers"

29 On page 36, line 14, after "70.02.050 (1)(a) and" strike "(2)(a)  
30 and" and after "(b)" insert "and (7)"

31 On page 58, line 25, after "**36.**" strike "This" and insert "Except  
32 for section 5 of this act, this"

33 On page 58, after line 25, insert the following:

1           "NEW SECTION.   **Sec. 37.** Section 5 of this act is necessary for the  
2 immediate preservation of the public peace, health, or safety, or  
3 support of the state government and its existing public institutions,  
4 and takes effect immediately."

5           Correct the title.

EFFECT: Authorizes the disclosure of sexually transmitted disease information to federal, state, or local public health authorities: (1) As required by law to report health care information; (2) as needed to determine compliance with certification or registration laws; or (3) to protect the public health. Exempts such disclosures from the Public Records Act.

Restores current law regarding the release of health care information pursuant to a discovery request or compulsory process, but only as it pertains to hospitals (allowing 14 days' notice to seek a protective order). Applies the bill's discovery and compulsory process provisions to all nonhospital health care facilities and providers.

Limits the definition of "information and records related to mental health services" as applied to hospitals to only apply to services provided by mental health professionals or a hospital-operated community mental health program.

Authorizes the disclosure of mental health information to the Department of Social and Health Services for program evaluation or research (restoring a provision under current law that had been stricken).

Specifies that health care providers and facilities may not use or disclose health care information for marketing or fundraising purposes unless permitted by federal law.

Eliminates the limitation of disclosure accounting exceptions to only apply to nonelectronic health records, so that all of the listed exceptions apply to electronic health records too (restores substantially all of current law allowing patients to receive an accounting from a health care provider of all of the disclosures of their records subject to specified exceptions).

Authorizes the disclosure of health care information to an organ procurement organization to determine medical suitability of a body part.

Includes an emergency clause for provisions authorizing the disclosure of health care information for research, to county coroners and medical examiners, and to organ procurement organizations.

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