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HOUSE BILL 1679

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State of Washington                      63rd Legislature                      2013 Regular Session

By Representatives Cody, Jenkins, and Ryu

Read first time 02/05/13. Referred to Committee on Health Care & Wellness.

1            AN ACT Relating to disclosure of health care information; amending  
2 RCW 70.02.010, 70.02.020, 70.02.050, 70.02.060, 71.05.660, 71.05.680,  
3 71.05.690, and 71.24.035; adding new sections to chapter 70.02 RCW;  
4 repealing RCW 70.24.105, 71.05.390, 71.05.640, 71.05.385, 71.05.420,  
5 71.05.440, 71.05.427, 71.05.510, 71.34.340, 71.34.345, and 71.34.350;  
6 prescribing penalties; and providing an effective date.

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

8            **Sec. 1.** RCW 70.02.010 and 2006 c 235 s 2 are each amended to read  
9 as follows:

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

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

15            (a) Statutory, regulatory, fiscal, medical, or scientific  
16 standards;

17            (b) A private or public program of payments to a health care  
18 provider; or

19            (c) Requirements for licensing, accreditation, or certification.

1           (2) "Department" means the department of social and health  
2 services."

3           (3) "Directory information" means information disclosing the  
4 presence, and for the purpose of identification, the name, location  
5 within a health care facility, and the general health condition of a  
6 particular patient who is a patient in a health care facility or who is  
7 currently receiving emergency health care in a health care facility.

8           (~~(3)~~) (4) "Federal, state, or local law enforcement authorities"  
9 means an officer of any agency or authority in the United States, a  
10 state, a tribe, a territory, or a political subdivision of a state, a  
11 tribe, or a territory who is empowered by law to: (a) Investigate or  
12 conduct an official inquiry into a potential criminal violation of law;  
13 or (b) prosecute or otherwise conduct a criminal proceeding arising  
14 from an alleged violation of law.

15           (~~(4)~~) (5) "General health condition" means the patient's health  
16 status described in terms of "critical," "poor," "fair," "good,"  
17 "excellent," or terms denoting similar conditions.

18           (~~(5)~~) (6) "Health care" means any care, service, or procedure  
19 provided by a health care provider:

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

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

23           (~~(6)~~) (7) "Health care facility" means a hospital, clinic,  
24 nursing home, laboratory, office, or similar place where a health care  
25 provider provides health care to patients.

26           (~~(7)~~) (8) "Health care information" means any information,  
27 whether oral or recorded in any form or medium, that identifies or can  
28 readily be associated with the identity of a patient and directly  
29 relates to the patient's health care, including a patient's  
30 deoxyribonucleic acid and identified sequence of chemical base pairs.  
31 The term includes any required accounting of disclosures of health care  
32 information.

33           (~~(8)~~) (9) "Health care operations" means any of the following  
34 activities of a health care provider, health care facility, or third-  
35 party payor to the extent that the activities are related to functions  
36 that make an entity a health care provider, a health care facility, or  
37 a third-party payor:

1 (a) Conducting: Quality assessment and improvement activities,  
2 including outcomes evaluation and development of clinical guidelines,  
3 if the obtaining of generalizable knowledge is not the primary purpose  
4 of any studies resulting from such activities; population-based  
5 activities relating to improving health or reducing health care costs,  
6 protocol development, case management and care coordination, contacting  
7 of health care providers and patients with information about treatment  
8 alternatives; and related functions that do not include treatment;

9 (b) Reviewing the competence or qualifications of health care  
10 professionals, evaluating practitioner and provider performance and  
11 third-party payor performance, conducting training programs in which  
12 students, trainees, or practitioners in areas of health care learn  
13 under supervision to practice or improve their skills as health care  
14 providers, training of nonhealth care professionals, accreditation,  
15 certification, licensing, or credentialing activities;

16 (c) Underwriting, premium rating, and other activities relating to  
17 the creation, renewal, or replacement of a contract of health insurance  
18 or health benefits, and ceding, securing, or placing a contract for  
19 reinsurance of risk relating to claims for health care, including stop-  
20 loss insurance and excess of loss insurance, if any applicable legal  
21 requirements are met;

22 (d) Conducting or arranging for medical review, legal services, and  
23 auditing functions, including fraud and abuse detection and compliance  
24 programs;

25 (e) Business planning and development, such as conducting cost-  
26 management and planning-related analyses related to managing and  
27 operating the health care facility or third-party payor, including  
28 formulary development and administration, development, or improvement  
29 of methods of payment or coverage policies; and

30 (f) Business management and general administrative activities of  
31 the health care facility, health care provider, or third-party payor  
32 including, but not limited to:

33 (i) Management activities relating to implementation of and  
34 compliance with the requirements of this chapter;

35 (ii) Customer service, including the provision of data analyses for  
36 policy holders, plan sponsors, or other customers, provided that health  
37 care information is not disclosed to such policy holder, plan sponsor,  
38 or customer;

1 (iii) Resolution of internal grievances;

2 (iv) The sale, transfer, merger, or consolidation of all or part of  
3 a health care provider, health care facility, or third-party payor with  
4 another health care provider, health care facility, or third-party  
5 payor or an entity that following such activity will become a health  
6 care provider, health care facility, or third-party payor, and due  
7 diligence related to such activity; and

8 (v) Consistent with applicable legal requirements, creating  
9 deidentified health care information or a limited dataset and fund-  
10 raising for the benefit of the health care provider, health care  
11 facility, or third-party payor.

12 ~~((9))~~ (10) "Health care provider" means a person who is licensed,  
13 certified, registered, or otherwise authorized by the law of this state  
14 to provide health care in the ordinary course of business or practice  
15 of a profession.

16 ~~((10))~~ (11) "Information and records related to mental health  
17 services" means a type of health care information that relates to all  
18 information and records, including mental health treatment records,  
19 compiled, obtained, or maintained in the course of providing services  
20 by a mental health service agency, as defined in this section. This  
21 may include documents of legal proceedings under chapter 71.05, 71.34,  
22 or 10.77 RCW, or somatic health care information.

23 (12) "Information and records related to sexually transmitted  
24 diseases" means a type of health care information that relates to the  
25 identity of any person upon whom an HIV antibody test or other sexually  
26 transmitted infection test is performed, the results of such tests, and  
27 any information relating to diagnosis of or treatment for any confirmed  
28 sexually transmitted infections.

29 (13) "Institutional review board" means any board, committee, or  
30 other group formally designated by an institution, or authorized under  
31 federal or state law, to review, approve the initiation of, or conduct  
32 periodic review of research programs to assure the protection of the  
33 rights and welfare of human research subjects.

34 ~~((11))~~ (14) "Maintain," as related to health care information,  
35 means to hold, possess, preserve, retain, store, or control that  
36 information.

37 ~~((12))~~ (15) "Mental health service agency" means a public or  
38 private agency that provides services to persons with mental disorders

1 as defined under RCW 71.05.020 and 71.34.020 and receives funding from  
2 public sources. This includes evaluation and treatment facilities as  
3 defined in RCW 71.34.020, community mental health service delivery  
4 systems, or community mental health programs, as defined in RCW  
5 71.24.025, and facilities conducting competency evaluations and  
6 restoration under chapter 10.77 RCW.

7 (16) "Mental health treatment records" include registration  
8 records, as defined in RCW 71.05.020, and all other records concerning  
9 persons who are receiving or who at any time have received services for  
10 mental illness, which are maintained by the department, by regional  
11 support networks and their staff, and by treatment facilities. "Mental  
12 health treatment records" include mental health information contained  
13 in a medical bill including, but not limited to, mental health drugs,  
14 a mental health diagnosis, provider name, and dates of service stemming  
15 from a medical service. "Mental health treatment records" do not  
16 include notes or records maintained for personal use by a person  
17 providing treatment services for the department, regional support  
18 networks, or a treatment facility if the notes or records are not  
19 available to others.

20 (17) "Patient" means an individual who receives or has received  
21 health care. The term includes a deceased individual who has received  
22 health care.

23 ~~((+13))~~ (18) "Payment" means:

24 (a) The activities undertaken by:

25 (i) A third-party payor to obtain premiums or to determine or  
26 fulfill its responsibility for coverage and provision of benefits by  
27 the third-party payor; or

28 (ii) A health care provider, health care facility, or third-party  
29 payor, to obtain or provide reimbursement for the provision of health  
30 care; and

31 (b) The activities in (a) of this subsection that relate to the  
32 patient to whom health care is provided and that include, but are not  
33 limited to:

34 (i) Determinations of eligibility or coverage, including  
35 coordination of benefits or the determination of cost-sharing amounts,  
36 and adjudication or subrogation of health benefit claims;

37 (ii) Risk adjusting amounts due based on enrollee health status and  
38 demographic characteristics;

1 (iii) Billing, claims management, collection activities, obtaining  
2 payment under a contract for reinsurance, including stop-loss insurance  
3 and excess of loss insurance, and related health care data processing;

4 (iv) Review of health care services with respect to medical  
5 necessity, coverage under a health plan, appropriateness of care, or  
6 justification of charges;

7 (v) Utilization review activities, including precertification and  
8 preauthorization of services, and concurrent and retrospective review  
9 of services; and

10 (vi) Disclosure to consumer reporting agencies of any of the  
11 following health care information relating to collection of premiums or  
12 reimbursement:

13 (A) Name and address;

14 (B) Date of birth;

15 (C) Social security number;

16 (D) Payment history;

17 (E) Account number; and

18 (F) Name and address of the health care provider, health care  
19 facility, and/or third-party payor.

20 (~~(14)~~) (19) "Person" means an individual, corporation, business  
21 trust, estate, trust, partnership, association, joint venture,  
22 government, governmental subdivision or agency, or any other legal or  
23 commercial entity.

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

35 (~~(16)~~) (21) "Sexually transmitted infection" or "sexually  
36 transmitted disease" has the same meaning as "sexually transmitted  
37 disease" in RCW 70.24.017.

1        (22) "Third-party payor" means an insurer regulated under Title 48  
2 RCW authorized to transact business in this state or other  
3 jurisdiction, including a health care service contractor, and health  
4 maintenance organization; or an employee welfare benefit plan; or a  
5 state or federal health benefit program.

6        (~~(17)~~) (23) "Treatment" means the provision, coordination, or  
7 management of health care and related services by one or more health  
8 care providers or health care facilities, including the coordination or  
9 management of health care by a health care provider or health care  
10 facility with a third party; consultation between health care providers  
11 or health care facilities relating to a patient; or the referral of a  
12 patient for health care from one health care provider or health care  
13 facility to another.

14        **Sec. 2.** RCW 70.02.020 and 2005 c 468 s 2 are each amended to read  
15 as follows:

16        (1) Except as authorized (~~in RCW 70.02.050~~) elsewhere in this  
17 chapter, a health care provider, an individual who assists a health  
18 care provider in the delivery of health care, or an agent and employee  
19 of a health care provider may not disclose health care information  
20 about a patient to any other person without the patient's written  
21 authorization. A disclosure made under a patient's written  
22 authorization must conform to the authorization.

23        (2) A patient has a right to receive an accounting of disclosures  
24 of health care information made by a health care provider or a health  
25 care facility in the six years before the date on which the accounting  
26 is requested, except for disclosures:

- 27        (a) To carry out treatment, payment, and health care operations;
- 28        (b) To the patient of health care information about him or her;
- 29        (c) Incident to a use or disclosure that is otherwise permitted or  
30 required;
- 31        (d) Pursuant to an authorization where the patient authorized the  
32 disclosure of health care information about himself or herself;
- 33        (e) Of directory information;
- 34        (f) To persons involved in the patient's care;
- 35        (g) For national security or intelligence purposes if an accounting  
36 of disclosures is not permitted by law;

1 (h) To correctional institutions or law enforcement officials if an  
2 accounting of disclosures is not permitted by law; (~~and~~)

3 (i) Of a limited data set that excludes direct identifiers of the  
4 patient or of relatives, employers, or household members of the  
5 patient; and

6 (j) As provided in RCW 71.05.425.

7 **Sec. 3.** RCW 70.02.050 and 2007 c 156 s 12 are each amended to read  
8 as follows:

9 (1) A health care provider or health care facility may disclose  
10 health care information, except for information and records related to  
11 sexually transmitted diseases, about a patient without the patient's  
12 authorization to the extent a recipient needs to know the information,  
13 if the disclosure is:

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

16 (b) To any other person who requires health care information for  
17 health care education, or to provide planning, quality assurance, peer  
18 review, or administrative, legal, financial, actuarial services to, or  
19 other health care operations for or on behalf of the health care  
20 provider or health care facility; or for assisting the health care  
21 provider or health care facility in the delivery of health care and the  
22 health care provider or health care facility reasonably believes that  
23 the person:

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

26 (ii) Will take appropriate steps to protect the health care  
27 information;

28 ~~(c) ((To any other health care provider or health care facility~~  
29 ~~reasonably believed to have previously provided health care to the~~  
30 ~~patient, to the extent necessary to provide health care to the patient,~~  
31 ~~unless the patient has instructed the health care provider or health~~  
32 ~~care facility in writing not to make the disclosure;~~

33 ~~(d) To any person if the health care provider or health care~~  
34 ~~facility reasonably believes that disclosure will avoid or minimize an~~  
35 ~~imminent danger to the health or safety of the patient or any other~~  
36 ~~individual, however there is no obligation under this chapter on the~~  
37 ~~part of the provider or facility to so disclose;~~



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

7       ~~(f) To a health care provider or health care facility who is the~~  
8 ~~successor in interest to the health care provider or health care~~  
9 ~~facility maintaining the health care information;~~

10       ~~(g) For use in a research project that an institutional review~~  
11 ~~board has determined;~~

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

14       ~~(ii) Is impracticable without the use or disclosure of the health~~  
15 ~~care information in individually identifiable form;~~

16       ~~(iii) Contains reasonable safeguards to protect the information~~  
17 ~~from redisclosure;~~

18       ~~(iv) Contains reasonable safeguards to protect against identifying,~~  
19 ~~directly or indirectly, any patient in any report of the research~~  
20 ~~project; and~~

21       ~~(v) Contains procedures to remove or destroy at the earliest~~  
22 ~~opportunity, consistent with the purposes of the project, information~~  
23 ~~that would enable the patient to be identified, unless an institutional~~  
24 ~~review board authorizes retention of identifying information for~~  
25 ~~purposes of another research project;~~

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

28       ~~(i) Remove or destroy, at the earliest opportunity consistent with~~  
29 ~~the purpose of the audit, information that would enable the patient to~~  
30 ~~be identified; and~~

31       ~~(ii) Not to disclose the information further, except to accomplish~~  
32 ~~the audit or report unlawful or improper conduct involving fraud in~~  
33 ~~payment for health care by a health care provider or patient, or other~~  
34 ~~unlawful conduct by the health care provider;~~

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

37       ~~((j) To provide directory information, unless the patient has~~

1 ~~instructed the health care provider or health care facility not to make~~  
2 ~~the disclosure;~~

3 ~~(k) To fire, police, sheriff, or another public authority, that~~  
4 ~~brought, or caused to be brought, the patient to the health care~~  
5 ~~facility or health care provider if the disclosure is limited to the~~  
6 ~~patient's name, residence, sex, age, occupation, condition, diagnosis,~~  
7 ~~estimated or actual discharge date, or extent and location of injuries~~  
8 ~~as determined by a physician, and whether the patient was conscious~~  
9 ~~when admitted;~~

10 ~~(l) To federal, state, or local law enforcement authorities and the~~  
11 ~~health care provider, health care facility, or third party payor~~  
12 ~~believes in good faith that the health care information disclosed~~  
13 ~~constitutes evidence of criminal conduct that occurred on the premises~~  
14 ~~of the health care provider, health care facility, or third party~~  
15 ~~payor;~~

16 ~~(m) To another health care provider, health care facility, or~~  
17 ~~third party payor for the health care operations of the health care~~  
18 ~~provider, health care facility, or third party payor that receives the~~  
19 ~~information, if each entity has or had a relationship with the patient~~  
20 ~~who is the subject of the health care information being requested, the~~  
21 ~~health care information pertains to such relationship, and the~~  
22 ~~disclosure is for the purposes described in RCW 70.02.010(8) (a) and~~  
23 ~~(b);)) or~~

24 ~~((n)) (d) For payment, including information necessary for a~~  
25 ~~recipient to make a claim, or for a claim to be made on behalf of a~~  
26 ~~recipient for aid, insurance, or medical assistance to which he or she~~  
27 ~~may be entitled.~~

28 (2) A health care provider shall disclose health care information,  
29 except for information and records related to sexually transmitted  
30 diseases, about a patient without the patient's authorization if the  
31 disclosure is((÷

32 (a)) to federal, state, or local public health authorities, to the  
33 extent the health care provider is required by law to report health  
34 care information; when needed to determine compliance with state or  
35 federal licensure, certification or registration rules or laws; or when  
36 needed to protect the public health((÷

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

1 ~~(c) To federal, state, or local law enforcement authorities, upon~~  
2 ~~receipt of a written or oral request made to a nursing supervisor,~~  
3 ~~administrator, or designated privacy official, in a case in which the~~  
4 ~~patient is being treated or has been treated for a bullet wound,~~  
5 ~~gunshot wound, powder burn, or other injury arising from or caused by~~  
6 ~~the discharge of a firearm, or an injury caused by a knife, an ice~~  
7 ~~pick, or any other sharp or pointed instrument which federal, state, or~~  
8 ~~local law enforcement authorities reasonably believe to have been~~  
9 ~~intentionally inflicted upon a person, or a blunt force injury that~~  
10 ~~federal, state, or local law enforcement authorities reasonably believe~~  
11 ~~resulted from a criminal act, the following information, if known:~~

- 12 ~~(i) The name of the patient;~~  
13 ~~(ii) The patient's residence;~~  
14 ~~(iii) The patient's sex;~~  
15 ~~(iv) The patient's age;~~  
16 ~~(v) The patient's condition;~~  
17 ~~(vi) The patient's diagnosis, or extent and location of injuries as~~  
18 ~~determined by a health care provider;~~  
19 ~~(vii) Whether the patient was conscious when admitted;~~  
20 ~~(viii) The name of the health care provider making the~~  
21 ~~determination in (c)(v), (vi), and (vii) of this subsection;~~  
22 ~~(ix) Whether the patient has been transferred to another facility;~~  
23 ~~and~~  
24 ~~(x) The patient's discharge time and date;~~  
25 ~~(d) To county coroners and medical examiners for the investigations~~  
26 ~~of deaths;~~  
27 ~~(e) Pursuant to compulsory process in accordance with RCW~~  
28 ~~70.02.060.~~

29 ~~(3) All state or local agencies obtaining patient health care~~  
30 ~~information pursuant to this section shall adopt rules establishing~~  
31 ~~their record acquisition, retention, and security policies that are~~  
32 ~~consistent with this chapter)).~~

33 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.02 RCW  
34 to read as follows:

35 (1) A health care provider or health care facility may disclose  
36 health care information, except for information and records related to

1 sexually transmitted diseases and information related to mental health  
2 services, about a patient without the patient's authorization, to:

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

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

19 (d) 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 (e) A person who obtains information for purposes of an audit, if  
23 that person agrees in writing to:

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

27 (ii) Not to disclose the information further, except to accomplish  
28 the audit or report unlawful or improper conduct involving fraud in  
29 payment for health care by a health care provider or patient, or other  
30 unlawful conduct by the health care provider;

31 (f) Provide directory information, unless the patient has  
32 instructed the health care provider or health care facility not to make  
33 the disclosure;

34 (g) Fire, police, sheriff, or other public authority, that brought,  
35 or caused to be brought, the patient to the health care facility or  
36 health care provider if the disclosure is limited to the patient's  
37 name, residence, sex, age, occupation, condition, diagnosis, estimated

1 or actual discharge date, or extent and location of injuries as  
2 determined by a physician, and whether the patient was conscious when  
3 admitted;

4 (h) Federal, state, or local law enforcement authorities and the  
5 health care provider, health care facility, or third-party payor  
6 believes in good faith that the health care information disclosed  
7 constitutes evidence of criminal conduct that occurred on the premises  
8 of the health care provider, health care facility, or third-party  
9 payor; and

10 (i) Another health care provider, health care facility, or third-  
11 party payor for the health care operations of the health care provider,  
12 health care facility, or third-party payor that receives the  
13 information, if each entity has or had a relationship with the patient  
14 who is the subject of the health care information being requested, the  
15 health care information pertains to such relationship, and the  
16 disclosure is for the purposes described in RCW 70.02.010(9) (a) and  
17 (b).

18 (2) A health care provider shall disclose health care information,  
19 except for information related to sexually transmitted diseases and  
20 information related to mental health services, about a patient without  
21 the patient's authorization if the disclosure is:

22 (a) To federal, state, or local law enforcement authorities to the  
23 extent the health care provider is required by law;

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

35 (i) The name of the patient;

36 (ii) The patient's residence;

37 (iii) The patient's sex;

38 (iv) The patient's age;

1 (v) The patient's condition;  
2 (vi) The patient's diagnosis, or extent and location of injuries as  
3 determined by a health care provider;  
4 (vii) Whether the patient was conscious when admitted;  
5 (viii) The name of the health care provider making the  
6 determination in (b)(v), (vi), and (vii) of this subsection;  
7 (ix) Whether the patient has been transferred to another facility;  
8 and  
9 (x) The patient's discharge time and date;  
10 (c) Pursuant to compulsory process in accordance with RCW  
11 70.02.060.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.02 RCW  
13 to read as follows:

14 (1) A health care provider or health care facility may disclose  
15 health care information about a patient without the patient's  
16 authorization to the extent a recipient needs to know the information,  
17 if the disclosure is for use in a research project that an  
18 institutional review board has determined:

19 (a) Is of sufficient importance to outweigh the intrusion into the  
20 privacy of the patient that would result from the disclosure;

21 (b) Is impracticable without the use or disclosure of the health  
22 care information in individually identifiable form;

23 (c) Contains reasonable safeguards to protect the information from  
24 redisclosure;

25 (d) Contains reasonable safeguards to protect against identifying,  
26 directly or indirectly, any patient in any report of the research  
27 project; and

28 (e) Contains procedures to remove or destroy at the earliest  
29 opportunity, consistent with the purposes of the project, information  
30 that would enable the patient to be identified, unless an institutional  
31 review board authorizes retention of identifying information for  
32 purposes of another research project.

33 (2) A health care provider or health care facility shall disclose  
34 health care information about a patient without the patient's  
35 authorization if the disclosure is to county coroners and medical  
36 examiners for the investigations of deaths.

1           NEW SECTION.   **Sec. 6.** A new section is added to chapter 70.02 RCW  
2 to read as follows:

3           (1) No person may disclose or be compelled to disclose the identity  
4 of any person who has investigated, considered, or requested a test or  
5 treatment for a sexually transmitted disease, except as authorized by  
6 this section, section 5 of this act, or chapter 70.24 RCW.

7           (2) No person may disclose or be compelled to disclose information  
8 and records related to sexually transmitted diseases. A person may  
9 disclose information related to sexually transmitted diseases about a  
10 patient without the patient's authorization, to the extent a recipient  
11 needs to know the information, if the disclosure is to:

12           (a) The subject of the test or the subject's legal representative  
13 for health care decisions in accordance with RCW 7.70.065, with the  
14 exception of such a representative of a minor fourteen years of age or  
15 over and otherwise competent;

16           (b) The state public health officer, a local public health officer,  
17 or the centers for disease control of the United States public health  
18 service in accordance with reporting requirements for a diagnosed case  
19 of a sexually transmitted disease;

20           (c) A health facility or health care provider that procures,  
21 processes, distributes, or uses: (i) A human body part, tissue, or  
22 blood from a deceased person with respect to medical information  
23 regarding that person; (ii) semen, including that was provided prior to  
24 March 23, 1988, for the purpose of artificial insemination; or (iii)  
25 blood specimens;

26           (d) Any state or local public health officer conducting an  
27 investigation pursuant to RCW 70.24.024, so long as the record was  
28 obtained by means of court-ordered HIV testing pursuant to RCW  
29 70.24.340 or 70.24.024;

30           (e) A person allowed access to the record by a court order granted  
31 after application showing good cause therefor. In assessing good  
32 cause, the court shall weigh the public interest and the need for  
33 disclosure against the injury to the patient, to the physician-patient  
34 relationship, and to the treatment services. Upon the granting of the  
35 order, the court, in determining the extent to which any disclosure of  
36 all or any part of the record of any such test is necessary, shall  
37 impose appropriate safeguards against unauthorized disclosure. An  
38 order authorizing disclosure must: (i) Limit disclosure to those parts

1 of the patient's record deemed essential to fulfill the objective for  
2 which the order was granted; (ii) limit disclosure to those persons  
3 whose need for information is the basis for the order; and (iii)  
4 include any other appropriate measures to keep disclosure to a minimum  
5 for the protection of the patient, the physician-patient relationship,  
6 and the treatment services;

7 (f) Persons who, because of their behavioral interaction with the  
8 infected individual, have been placed at risk for acquisition of a  
9 sexually transmitted disease, as provided in RCW 70.24.022, if the  
10 health officer or authorized representative believes that the exposed  
11 person was unaware that a risk of disease exposure existed and that the  
12 disclosure of the identity of the infected person is necessary;

13 (g) A law enforcement officer, firefighter, health care provider,  
14 health care facility staff person, department of correction's staff  
15 person, jail staff person, or other persons as defined by the board in  
16 rule pursuant to RCW 70.24.340(4), who has requested a test of a person  
17 whose bodily fluids he or she has been substantially exposed to,  
18 pursuant to RCW 70.24.340(4), if a state or local public health officer  
19 performs the test;

20 (h) Claims management personnel employed by or associated with an  
21 insurer, health care service contractor, health maintenance  
22 organization, self-funded health plan, state administered health care  
23 claims payer, or any other payer of health care claims where such  
24 disclosure is to be used solely for the prompt and accurate evaluation  
25 and payment of medical or related claims. Information released under  
26 this subsection must be confidential and may not be released or  
27 available to persons who are not involved in handling or determining  
28 medical claims payment; and

29 (i) A department of social and health services worker, a child  
30 placing agency worker, or a guardian ad litem who is responsible for  
31 making or reviewing placement or case-planning decisions or  
32 recommendations to the court regarding a child, who is less than  
33 fourteen years of age, has a sexually transmitted disease, and is in  
34 the custody of the department of social and health services or a  
35 licensed child placing agency. This information may also be received  
36 by a person responsible for providing residential care for such a child  
37 when the department of social and health services or a licensed child



1 placing agency determines that it is necessary for the provision of  
2 child care services.

3 (3) No person to whom the results of a test for a sexually  
4 transmitted disease have been disclosed pursuant to subsection (2) of  
5 this section may disclose the test results to another person except as  
6 authorized by that subsection.

7 (4) The release of sexually transmitted disease information  
8 regarding an offender or detained person, except as provided in  
9 subsection (2)(d) of this section, is governed as follows:

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

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

35 (c) Information regarding the sexually transmitted disease status  
36 of an offender or detained person is confidential and may be disclosed  
37 by a correctional health care administrator or infection control  
38 coordinator or local jail health care administrator or infection

1 control coordinator only as necessary for disease prevention or control  
2 and for protection of the safety and security of the staff, offenders,  
3 and the public. Unauthorized disclosure of this information to any  
4 person may result in disciplinary action, in addition to the penalties  
5 prescribed in RCW 70.24.080 or any other penalties as may be prescribed  
6 by law.

7 (d) Notwithstanding the limitations on disclosure contained in (a),  
8 (b), and (c) of this subsection, whenever any member of a jail staff or  
9 department of corrections staff has been substantially exposed to the  
10 bodily fluids of an offender or detained person, then the results of  
11 any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or  
12 70.24.370, must be immediately disclosed to the staff person in  
13 accordance with the Washington Administrative Code rules governing  
14 employees' occupational exposure to bloodborne pathogens. Disclosure  
15 must be accompanied by appropriate counseling for the staff member,  
16 including information regarding follow-up testing and treatment.  
17 Disclosure must also include notice that subsequent disclosure of the  
18 information in violation of this chapter or use of the information to  
19 harass or discriminate against the offender or detainee may result in  
20 disciplinary action, in addition to the penalties prescribed in RCW  
21 70.24.080, and imposition of other penalties prescribed by law.

22 (e) The staff member must also be informed whether the offender or  
23 detained person had any other communicable disease, as defined in RCW  
24 72.09.251(3), when the staff person was substantially exposed to the  
25 offender's or detainee's bodily fluids.

26 (f) The test results of voluntary and anonymous HIV testing or HIV-  
27 related condition may not be disclosed to a staff person except as  
28 provided in this section and RCW 70.02.050(1)(d) and 70.24.340(4). A  
29 health care administrator or infection control coordinator may provide  
30 the staff member with information about how to obtain the offender's or  
31 detainee's test results under this section and RCW 70.02.050(1)(d) and  
32 70.24.340(4).

33 (5) The requirements of this section do not apply to the customary  
34 methods utilized for the exchange of medical information among health  
35 care providers in order to provide health care services to the patient,  
36 nor do they apply within health care facilities where there is a need  
37 for access to confidential medical information to fulfill professional  
38 duties.

1 (6) Upon request of the victim, disclosure of test results under  
2 this section to victims of sexual offenses under chapter 9A.44 RCW must  
3 be made if the result is negative or positive. The county prosecuting  
4 attorney shall notify the victim of the right to such disclosure. The  
5 disclosure must be accompanied by appropriate counseling, including  
6 information regarding follow-up testing.

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.02 RCW  
8 to read as follows:

9 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,  
10 70.96A.150, 74.09.295, sections 5 and 8 of this act, or pursuant to a  
11 valid authorization under RCW 70.02.030, the fact of admission to a  
12 provider for mental health services and all information and records  
13 compiled, obtained, or maintained in the course of providing mental  
14 health services to either voluntary or involuntary recipients of  
15 services at public or private agencies must be confidential.

16 (2) Information and records related to mental health services,  
17 other than those obtained through treatment under chapter 71.34 RCW,  
18 may be disclosed only:

19 (a) In communications between qualified professional persons to  
20 meet the requirements of chapter 71.05 RCW, in the provision of  
21 services or appropriate referrals, or in the course of guardianship  
22 proceedings if provided to a professional person:

- 23 (i) Employed by the facility;
- 24 (ii) Who has medical responsibility for the patient's care;
- 25 (iii) Who is a designated mental health professional;
- 26 (iv) Who is providing services under chapter 71.24 RCW;
- 27 (v) Who is employed by a state or local correctional facility where  
28 the person is confined or supervised; or
- 29 (vi) Who is providing evaluation, treatment, or follow-up services  
30 under chapter 10.77 RCW;

31 (b) When the communications regard the special needs of a patient  
32 and the necessary circumstances giving rise to such needs and the  
33 disclosure is made by a facility providing services to the operator of  
34 a facility in which the patient resides or will reside;

35 (c)(i) When the person receiving services, or his or her guardian,  
36 designates persons to whom information or records may be released, or

1 if the person is a minor, when his or her parents make such a  
2 designation;

3 (ii) A public or private agency shall release to a person's next of  
4 kin, attorney, personal representative, guardian, or conservator, if  
5 any:

6 (A) The information that the person is presently a patient in the  
7 facility or that the person is seriously physically ill;

8 (B) A statement evaluating the mental and physical condition of the  
9 patient, and a statement of the probable duration of the patient's  
10 confinement, if such information is requested by the next of kin,  
11 attorney, personal representative, guardian, or conservator; and

12 (iii) Other information requested by the next of kin or attorney as  
13 may be necessary to decide whether or not proceedings should be  
14 instituted to appoint a guardian or conservator;

15 (d)(i) To the courts as necessary to the administration of this  
16 chapter or to a court ordering an evaluation or treatment under chapter  
17 10.77 RCW solely for the purpose of preventing the entry of any  
18 evaluation or treatment order that is inconsistent with any order  
19 entered under this chapter.

20 (ii) To a court or its designee in which a motion under chapter  
21 10.77 RCW has been made for involuntary medication of a defendant for  
22 the purpose of competency restoration.

23 (iii) Disclosure under this subsection is mandatory for the purpose  
24 of the federal health insurance portability and accountability act;

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

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

38 (f) To the attorney of the detained person;

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

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

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

25 (i)(i) To appropriate corrections and law enforcement agencies all  
26 necessary and relevant information in the event of a crisis or emergent  
27 situation that poses a significant and imminent risk to the public.  
28 The mental health service agency or its employees are not civilly  
29 liable for the decision to disclose or not so long as the decision was  
30 reached in good faith and without gross negligence.

31 (ii) Disclosure under this subsection is mandatory for the purposes  
32 of the health insurance portability and accountability act;

33 (j) To the persons designated in RCW 71.05.425 for the purposes  
34 described in those sections;

35 (k) Upon the death of a person. The person's next of kin, personal  
36 representative, guardian, or conservator, if any, must be notified.  
37 Next of kin who are of legal age and competent must be notified under  
38 this section in the following order: Spouse, parents, children,

1 brothers and sisters, and other relatives according to the degree of  
2 relation. Access to all records and information compiled, obtained, or  
3 maintained in the course of providing services to a deceased patient  
4 are governed by RCW 70.02.140;

5 (l) To mark headstones or otherwise memorialize patients interred  
6 at state hospital cemeteries. The department of social and health  
7 services shall make available the name, date of birth, and date of  
8 death of patients buried in state hospital cemeteries fifty years after  
9 the death of a patient;

10 (m) To law enforcement officers and to prosecuting attorneys as are  
11 necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information  
12 that may be released is limited as follows:

13 (i) Only the fact, place, and date of involuntary commitment, an  
14 official copy of any order or orders of commitment, and an official  
15 copy of any written or oral notice of ineligibility to possess a  
16 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
17 must be disclosed upon request;

18 (ii) The law enforcement and prosecuting attorneys may only release  
19 the information obtained to the person's attorney as required by court  
20 rule and to a jury or judge, if a jury is waived, that presides over  
21 any trial at which the person is charged with violating RCW  
22 9.41.040(2)(a)(ii);

23 (iii) Disclosure under this subsection is mandatory for the  
24 purposes of the federal health insurance portability and accountability  
25 act;

26 (n)(i) When a patient would otherwise be subject to the provisions  
27 of this section and disclosure is necessary for the protection of the  
28 patient or others due to his or her unauthorized disappearance from the  
29 facility, and his or her whereabouts is unknown, notice of the  
30 disappearance, along with relevant information, may be made to  
31 relatives, the department of corrections when the person is under the  
32 supervision of the department, and governmental law enforcement  
33 agencies designated by the physician or psychiatric advanced registered  
34 nurse practitioner in charge of the patient or the professional person  
35 in charge of the facility, or his or her professional designee.

36 (ii) Except as otherwise provided in this chapter, the uniform  
37 health care information act, chapter 70.02 RCW, applies to all records

1 and information compiled, obtained, or maintained in the course of  
2 providing services;

3 (o) Pursuant to lawful order of a court;

4 (p) To qualified staff members of the department, to the director  
5 of regional support networks, to resource management services  
6 responsible for serving a patient, or to service providers designated  
7 by resource management services as necessary to determine the progress  
8 and adequacy of treatment and to determine whether the person should be  
9 transferred to a less restrictive or more appropriate treatment  
10 modality or facility. The information must remain confidential;

11 (q) Within the treatment facility where the patient is receiving  
12 treatment, confidential information may be disclosed to persons  
13 employed, serving in bona fide training programs, or participating in  
14 supervised volunteer programs, at the facility when it is necessary to  
15 perform their duties;

16 (r) Within the department as necessary to coordinate treatment for  
17 mental illness, developmental disabilities, alcoholism, or drug abuse  
18 of persons who are under the supervision of the department;

19 (s) To a licensed physician or psychiatric advanced registered  
20 nurse practitioner who has determined that the life or health of the  
21 person is in danger and that treatment without the information  
22 contained in the treatment records could be injurious to the patient's  
23 health. Disclosure must be limited to the portions of the records  
24 necessary to meet the medical emergency;

25 (t) Consistent with the requirements of the federal health  
26 information portability and accountability act, to a licensed mental  
27 health professional, as defined in RCW 71.05.020, or a health care  
28 professional licensed under chapter 18.71, 18.71A, 18.57, 18.57A,  
29 18.79, or 18.36A RCW who is providing care to a person, or to whom a  
30 person has been referred for evaluation or treatment, to assure  
31 coordinated care and treatment of that person. Psychotherapy notes, as  
32 defined in 45 C.F.R. Sec. 164.501, may not be released without  
33 authorization of the person who is the subject of the request for  
34 release of information;

35 (u) To administrative and office support staff designated to obtain  
36 medical records for those licensed professionals listed in (j) of this  
37 subsection;

1 (v) To a facility that is to receive a person who is involuntarily  
2 committed under chapter 71.05 RCW, or upon transfer of the person from  
3 one treatment facility to another. The release of records under this  
4 subsection is limited to the treatment records required by law, a  
5 record or summary of all somatic treatments, and a discharge summary.  
6 The discharge summary may include a statement of the patient's problem,  
7 the treatment goals, the type of treatment which has been provided, and  
8 recommendation for future treatment, but may not include the patient's  
9 complete treatment record;

10 (w) To the person's counsel or guardian ad litem, without  
11 modification, at any time in order to prepare for involuntary  
12 commitment or recommitment proceedings, reexaminations, appeals, or  
13 other actions relating to detention, admission, commitment, or  
14 patient's rights under chapter 71.05 RCW;

15 (x) To staff members of the protection and advocacy agency or to  
16 staff members of a private, nonprofit corporation for the purpose of  
17 protecting and advocating the rights of persons with mental disorders  
18 or developmental disabilities. Resource management services may limit  
19 the release of information to the name, birthdate, and county of  
20 residence of the patient, information regarding whether the patient was  
21 voluntarily admitted, or involuntarily committed, the date and place of  
22 admission, placement, or commitment, the name and address of a guardian  
23 of the patient, and the date and place of the guardian's appointment.  
24 Any staff member who wishes to obtain additional information must  
25 notify the patient's resource management services in writing of the  
26 request and of the resource management services' right to object. The  
27 staff member shall send the notice by mail to the guardian's address.  
28 If the guardian does not object in writing within fifteen days after  
29 the notice is mailed, the staff member may obtain the additional  
30 information. If the guardian objects in writing within fifteen days  
31 after the notice is mailed, the staff member may not obtain the  
32 additional information;

33 (y) To all current treating providers of the patient with  
34 prescriptive authority who have written a prescription for the patient  
35 within the last twelve months. For purposes of coordinating health  
36 care, the department may release without written authorization of the  
37 patient, information acquired for billing and collection purposes as  
38 described in RCW 70.02.050(1)(d). The department shall notify the



1 patient that billing and collection information has been released to  
2 named providers, and provide the substance of the information released  
3 and the dates of such release. The department may not release  
4 counseling, inpatient psychiatric hospitalization, or drug and alcohol  
5 treatment information without a signed written release from the client.

6 (3) Whenever federal law or federal regulations restrict the  
7 release of information contained in the treatment records of any  
8 patient who receives treatment for chemical dependency, the department  
9 may restrict the release of the information as necessary to comply with  
10 federal law and regulations.

11 (4) Civil liability and immunity for the release of information  
12 about a particular person who is committed to the department of social  
13 and health services under RCW 71.05.280(3) and 71.05.320(3)(c) after  
14 dismissal of a sex offense as defined in RCW 9.94A.030, is governed by  
15 RCW 4.24.550.

16 (5) The fact of admission to a provider of mental health services,  
17 as well as all records, files, evidence, findings, or orders made,  
18 prepared, collected, or maintained pursuant to chapter 71.05 RCW are  
19 not admissible as evidence in any legal proceeding outside that chapter  
20 without the written authorization of the person who was the subject of  
21 the proceeding except as provided in section 12 of this act, in a  
22 subsequent criminal prosecution of a person committed pursuant to RCW  
23 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant  
24 to chapter 10.77 RCW due to incompetency to stand trial, in a civil  
25 commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of  
26 a minor, a guardianship or dependency proceeding. The records and  
27 files maintained in any court proceeding pursuant to chapter 71.05 RCW  
28 must be confidential and available subsequent to such proceedings only  
29 to the person who was the subject of the proceeding or his or her  
30 attorney. In addition, the court may order the subsequent release or  
31 use of such records or files only upon good cause shown if the court  
32 finds that appropriate safeguards for strict confidentiality are and  
33 will be maintained.

34 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.02 RCW  
35 to read as follows:

36 The fact of admission and all information and records related to

1 mental health services obtained through treatment under chapter 71.34  
2 RCW is confidential. Such confidential information may be disclosed  
3 only:

4 (1) In communications between mental health professionals to meet  
5 the requirements of chapter 71.34 RCW, in the provision of services to  
6 the minor, or in making appropriate referrals;

7 (2) In the course of guardianship or dependency proceedings;

8 (3) To the minor, the minor's parent, and the minor's attorney,  
9 subject to RCW 13.50.100;

10 (4) To the courts as necessary to administer this chapter;

11 (5) To law enforcement officers or public health officers as  
12 necessary to carry out the responsibilities of their office. However,  
13 only the fact and date of admission, and the date of discharge, the  
14 name and address of the treatment provider, if any, and the last known  
15 address must be disclosed upon request;

16 (6) To law enforcement officers, public health officers, relatives,  
17 and other governmental law enforcement agencies, if a minor has escaped  
18 from custody, disappeared from an evaluation and treatment facility,  
19 violated conditions of a less restrictive treatment order, or failed to  
20 return from an authorized leave, and then only such information as may  
21 be necessary to provide for public safety or to assist in the  
22 apprehension of the minor. The officers are obligated to keep the  
23 information confidential in accordance with chapter 71.34 RCW;

24 (7) To the secretary of social and health services for assistance  
25 in data collection and program evaluation or research so long as the  
26 secretary adopts rules for the conduct of such evaluation and research.  
27 The rules must include, but need not be limited to, the requirement  
28 that all evaluators and researchers sign an oath of confidentiality  
29 substantially as follows:

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

37 I recognize that unauthorized release of confidential information  
38 may subject me to civil liability under state law.

(8) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(9) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(10) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(11) Upon the death of a minor, to the minor's next of kin;

(12) To a facility in which the minor resides or will reside;

(13) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii).

(a) The extent of information that may be released is limited as follows:

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

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court

1 rule and to a jury or judge, if a jury is waived, that presides over  
2 any trial at which the person is charged with violating RCW  
3 9.41.040(2)(a)(ii);

4 (iii) Disclosure under this subsection is mandatory for the  
5 purposes of the federal health insurance portability and accountability  
6 act;

7 (b) This section may not be construed to prohibit the compilation  
8 and publication of statistical data for use by government or  
9 researchers under standards, including standards to assure maintenance  
10 of confidentiality, set forth by the secretary. The fact of admission  
11 and all information obtained pursuant to chapter 71.34 RCW are not  
12 admissible as evidence in any legal proceeding outside this chapter,  
13 except guardianship or dependency, without the written consent of the  
14 minor or the minor's parent;

15 (14) For the purpose of a correctional facility participating in  
16 the postinstitutional medical assistance system supporting the  
17 expedited medical determinations and medical suspensions as provided in  
18 RCW 74.09.555 and 74.09.295;

19 (15) Pursuant to a lawful order of a court.

20 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.02 RCW  
21 to read as follows:

22 (1) Information related to mental health services delivered to a  
23 person subject to chapter 9.94A or 9.95 RCW must be released, upon  
24 request, by a mental health service agency to department of corrections  
25 personnel for whom the information is necessary to carry out the  
26 responsibilities of their office. The information must be provided  
27 only for the purpose of completing presentence investigations,  
28 supervision of an incarcerated person, planning for and provision of  
29 supervision of a person, or assessment of a person's risk to the  
30 community. The request must be in writing and may not require the  
31 consent of the subject of the records.

32 (2) The information to be released to the department of corrections  
33 must include all relevant records and reports, as defined by rule,  
34 necessary for the department of corrections to carry out its duties,  
35 including those records and reports identified in subsection (1) of  
36 this section.

1 (3) The department shall, subject to available resources,  
2 electronically, or by the most cost-effective means available, provide  
3 the department of corrections with the names, last dates of services,  
4 and addresses of specific regional support networks and mental health  
5 service agencies that delivered mental health services to a person  
6 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between  
7 the departments.

8 (4) The department and the department of corrections, in  
9 consultation with regional support networks, mental health service  
10 agencies as defined in RCW 70.02.010, mental health consumers, and  
11 advocates for persons with mental illness, shall adopt rules to  
12 implement the provisions of this section related to the type and scope  
13 of information to be released. These rules must:

14 (a) Enhance and facilitate the ability of the department of  
15 corrections to carry out its responsibility of planning and ensuring  
16 community protection with respect to persons subject to sentencing  
17 under chapter 9.94A or 9.95 RCW, including accessing and releasing or  
18 disclosing information of persons who received mental health services  
19 as a minor; and

20 (b) Establish requirements for the notification of persons under  
21 the supervision of the department of corrections regarding the  
22 provisions of this section.

23 (5) The information received by the department of corrections under  
24 this section must remain confidential and subject to the limitations on  
25 disclosure outlined in chapter 71.34 RCW, except as provided in RCW  
26 72.09.585.

27 (6) No mental health service agency or individual employed by a  
28 mental health service agency may be held responsible for information  
29 released to or used by the department of corrections under the  
30 provisions of this section or rules adopted under this section.

31 (7) Whenever federal law or federal regulations restrict the  
32 release of information contained in the treatment records of any  
33 patient who receives treatment for alcoholism or drug dependency, the  
34 release of the information may be restricted as necessary to comply  
35 with federal law and regulations.

36 (8) This section does not modify the terms and conditions of  
37 disclosure of information related to sexually transmitted diseases  
38 under this chapter.

1        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 70.02 RCW  
2 to read as follows:

3        (1)(a) A mental health service agency shall release to the persons  
4 authorized under subsection (2) of this section, upon request:

5            (i) The fact, place, and date of an involuntary commitment, the  
6 fact and date of discharge or release, and the last known address of a  
7 person who has been committed under chapter 71.05 RCW.

8            (ii) Information related to mental health services, in the format  
9 determined under subsection (9) of this section, concerning a person  
10 who:

11            (A) Is currently committed to the custody or supervision of the  
12 department of corrections or the indeterminate sentence review board  
13 under chapter 9.94A or 9.95 RCW;

14            (B) Has been convicted or found not guilty by reason of insanity of  
15 a serious violent offense; or

16            (C) Was charged with a serious violent offense and the charges were  
17 dismissed under RCW 10.77.086.

18            (b) Legal counsel may release such information to the persons  
19 authorized under subsection (2) of this section on behalf of the mental  
20 health service agency, so long as nothing in this subsection requires  
21 the disclosure of attorney work product or attorney-client privileged  
22 information.

23        (2) The information subject to release under subsection (1) of this  
24 section must be released to law enforcement officers, personnel of a  
25 county or city jail, designated mental health professionals, public  
26 health officers, therapeutic court personnel, or personnel of the  
27 department of corrections, including the indeterminate sentence review  
28 board and personnel assigned to perform board-related duties, when such  
29 information is requested during the course of business and for the  
30 purpose of carrying out the responsibilities of the requesting person's  
31 office. No mental health service agency or person employed by a mental  
32 health service agency, or its legal counsel, may be liable for  
33 information released to or used under the provisions of this section or  
34 rules adopted under this section except under RCW 71.05.680.

35        (3) A person who requests information under subsection (1)(a)(ii)  
36 of this section must comply with the following restrictions:

37            (a) Information must be requested only for the purposes permitted

1 by this subsection and for the purpose of carrying out the  
2 responsibilities of the requesting person's office. Appropriate  
3 purposes for requesting information under this section include:

4 (i) Completing presentence investigations or risk assessment  
5 reports;

6 (ii) Assessing a person's risk to the community;

7 (iii) Assessing a person's risk of harm to self or others when  
8 confined in a city or county jail;

9 (iv) Planning for and provision of supervision of an offender,  
10 including decisions related to sanctions for violations of conditions  
11 of community supervision; and

12 (v) Responding to an offender's failure to report for department of  
13 corrections supervision;

14 (b) Information may not be requested under this section unless the  
15 requesting person has reasonable suspicion that the individual who is  
16 the subject of the information:

17 (i) Has engaged in activity indicating that a crime or a violation  
18 of community custody or parole has been committed or, based upon his or  
19 her current or recent past behavior, is likely to be committed in the  
20 near future; or

21 (ii) Is exhibiting signs of a deterioration in mental functioning  
22 which may make the individual appropriate for civil commitment under  
23 chapter 71.34 RCW; and

24 (c) Any information received under this section must be held  
25 confidential and subject to the limitations on disclosure outlined in  
26 this chapter, except:

27 (i) The information may be shared with other persons who have the  
28 right to request similar information under subsection (2) of this  
29 section, solely for the purpose of coordinating activities related to  
30 the individual who is the subject of the information in a manner  
31 consistent with the official responsibilities of the persons involved;

32 (ii) The information may be shared with a prosecuting attorney  
33 acting in an advisory capacity for a person who receives information  
34 under this section. A prosecuting attorney under this subsection is  
35 subject to the same restrictions and confidentiality limitations as the  
36 person who requested the information; and

37 (iii) As provided in RCW 72.09.585.

1 (4) A request for information related to mental health services  
2 under this section does not require the consent of the subject of the  
3 records. The request must be provided in writing, except to the extent  
4 authorized in subsection (5) of this section. A written request may  
5 include requests made by e-mail or facsimile so long as the requesting  
6 person is clearly identified. The request must specify the information  
7 being requested.

8 (5) In the event of an emergency situation that poses a significant  
9 risk to the public or the offender, a mental health service agency, or  
10 its legal counsel, shall release information related to mental health  
11 services delivered to the offender and, if known, information regarding  
12 where the offender is likely to be found to the department of  
13 corrections or law enforcement upon request. The initial request may  
14 be written or oral. All oral requests must be subsequently confirmed  
15 in writing. Information released in response to an oral request is  
16 limited to a statement as to whether the offender is or is not being  
17 treated by the mental health service agency and the address or  
18 information about the location or whereabouts of the offender.

19 (6) Disclosure under this section to state or local law enforcement  
20 authorities is mandatory for the purposes of the federal health  
21 insurance portability and accountability act.

22 (7) Whenever federal law or federal regulations restrict the  
23 release of information contained in the treatment records of any  
24 patient who receives treatment for alcoholism or drug dependency, the  
25 release of the information may be restricted as necessary to comply  
26 with federal law and regulations.

27 (8) This section does not modify the terms and conditions of  
28 disclosure of information related to sexually transmitted diseases  
29 under this chapter.

30 (9) In collaboration with interested organizations, the department  
31 shall develop a standard form for requests for information related to  
32 mental health services made under this section and a standard format  
33 for information provided in response to the requests. Consistent with  
34 the goals of the health information privacy provisions of the federal  
35 health insurance portability and accountability act, in developing the  
36 standard form for responsive information, the department shall design  
37 the form in such a way that the information disclosed is limited to the



1 minimum necessary to serve the purpose for which the information is  
2 requested.

3 **Sec. 11.** RCW 70.02.060 and 1991 c 335 s 205 are each amended to  
4 read as follows:

5 (1) ~~((Before service of))~~ A discovery request or compulsory process  
6 ~~((on a health care provider for health care information, an attorney~~  
7 ~~shall provide advance notice to the health care provider and the~~  
8 ~~patient or the patient's attorney involved through service of process~~  
9 ~~or first-class mail, indicating the health care provider from whom the~~  
10 ~~information is sought, what health care information is sought, and the~~  
11 ~~date by which a protective order must be obtained to prevent the health~~  
12 ~~care provider from complying. Such date shall give the patient and the~~  
13 ~~health care provider adequate time to seek a protective order, but in~~  
14 ~~no event be less than fourteen days since the date of service or~~  
15 ~~delivery to the patient and the health care provider of the foregoing.~~  
16 ~~Thereafter the request for discovery or compulsory process shall be~~  
17 ~~served on the health care provider.~~

18 (2) ~~Without the written consent of the patient, the health care~~  
19 ~~provider may not disclose the health care information sought under~~  
20 ~~subsection (1) of this section if the requestor has not complied with~~  
21 ~~the requirements of subsection (1) of this section. In the absence of~~  
22 ~~a protective order issued by a court of competent jurisdiction~~  
23 ~~forbidding compliance, the health care provider shall disclose the~~  
24 ~~information in accordance with this chapter. In the case of~~  
25 ~~compliance, the request for discovery or compulsory process shall be~~  
26 ~~made a part of the patient record.~~

27 (3) ~~Production of health care information under this section, in~~  
28 ~~and of itself, does not constitute a waiver of any privilege,~~  
29 ~~objection, or defense existing under other law or rule of evidence or~~  
30 ~~procedure)) for health care information must be made in accordance with~~  
31 ~~the appropriate civil rules of superior court and include service of a~~  
32 ~~copy of the subpoena on the patient whose records are being sought for~~  
33 ~~disclosure.~~

34 (2) Upon receipt of such a request or process, the health care  
35 provider shall provide a copy to the patient at the patient's last  
36 known address, to the patient's attorney, if known, unless after

1 reasonable inquiry the health care provider is unable to determine the  
2 last known address of the patient.

3 (3) On sending a copy of the request or process as provided in  
4 subsection (2) of this section, the health care provider has no further  
5 obligation to assert a state or federal privilege pertaining to the  
6 records or to appear or respond to a motion to compel production of  
7 records, and shall produce the records if ordered by a court. If an  
8 objection is timely filed by the patient, the patient or the patient's  
9 attorney is responsible for asserting or waiving any state or federal  
10 privilege that pertains to the records.

11 NEW SECTION. Sec. 12. A new section is added to chapter 70.02 RCW  
12 to read as follows:

13 All state or local agencies obtaining patient health care  
14 information pursuant to RCW 70.02.050 and sections 4 through 7 of this  
15 act shall adopt rules establishing their record acquisition, retention,  
16 and security policies that are consistent with this chapter.

17 NEW SECTION. Sec. 13. A new section is added to chapter 70.02 RCW  
18 to read as follows:

19 Whenever disclosure is made of information and records related to  
20 sexually transmitted diseases pursuant to this chapter, except for RCW  
21 70.02.050(1)(a) and section 7(2)(a) of this act, it must be accompanied  
22 by a statement in writing which includes the following or substantially  
23 similar language: "This information has been disclosed to you from  
24 records whose confidentiality is protected by state law. State law  
25 prohibits you from making any further disclosure of it without the  
26 specific written authorization of the person to whom it pertains, or as  
27 otherwise permitted by state law. A general authorization for the  
28 release of medical or other information is NOT sufficient for this  
29 purpose." An oral disclosure must be accompanied or followed by such  
30 a notice within ten days.

31 NEW SECTION. Sec. 14. A new section is added to chapter 70.02 RCW  
32 to read as follows:

33 (1) Resource management services, as defined in chapter 71.24 RCW,  
34 shall establish procedures to provide reasonable and timely access to

1 individual mental health treatment records. However, access may not be  
2 denied at any time to records of all medications and somatic treatments  
3 received by the person.

4 (2) Following discharge, a person who has received mental health  
5 services has a right to a complete record of all medications and  
6 somatic treatments prescribed during evaluation, admission, or  
7 commitment and to a copy of the discharge summary prepared at the time  
8 of his or her discharge. A reasonable and uniform charge for  
9 reproduction may be assessed.

10 (3) Mental health treatment records may be modified prior to  
11 inspection to protect the confidentiality of other patients or the  
12 names of any other persons referred to in the record who gave  
13 information on the condition that his or her identity remain  
14 confidential. Entire documents may not be withheld to protect such  
15 confidentiality.

16 (4) At the time of discharge resource management services shall  
17 inform all persons who have received mental health services of their  
18 rights as provided in this chapter and RCW 71.05.620.

19 NEW SECTION. **Sec. 15.** A new section is added to chapter 70.02 RCW  
20 to read as follows:

21 When disclosure of information and records related to mental  
22 services pertaining to a minor, as defined in RCW 71.34.020, is made,  
23 the date and circumstances under which the disclosure was made, the  
24 name or names of the persons or agencies to whom such disclosure was  
25 made and their relationship if any, to the minor, and the information  
26 disclosed must be entered promptly in the minor's clinical record.

27 NEW SECTION. **Sec. 16.** A new section is added to chapter 70.02 RCW  
28 to read as follows:

29 Any person who requests or obtains confidential information and  
30 records related to mental health services pursuant to this chapter  
31 under false pretenses is guilty of a gross misdemeanor.

32 NEW SECTION. **Sec. 17.** A new section is added to chapter 70.02 RCW  
33 to read as follows:

34 The department of social and health services shall adopt rules

1 related to the disclosure of mental health treatment records in this  
2 chapter.

3 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.02 RCW  
4 to read as follows:

5 In addition to any other information required to be released under  
6 this chapter, the department of social and health services is  
7 authorized, pursuant to RCW 4.24.550, to release relevant information  
8 that is necessary to protect the public, concerning a specific person  
9 committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal  
10 of a sex offense as defined in RCW 9.94A.030.

11 **Sec. 19.** RCW 71.05.660 and 2009 c 217 s 9 are each amended to read  
12 as follows:

13 Nothing in this chapter or chapter 70.02, 70.96A, (~~(71.05,)~~) 71.34,  
14 or 70.96B RCW shall be construed to interfere with communications  
15 between physicians, psychiatric advanced registered nurse  
16 practitioners, or psychologists and patients and attorneys and clients.

17 **Sec. 20.** RCW 71.05.680 and 2005 c 504 s 713 are each amended to  
18 read as follows:

19 Any person who requests or obtains confidential information  
20 pursuant to RCW 71.05.620 (~~(through 71.05.690)~~) under false pretenses  
21 shall be guilty of a gross misdemeanor.

22 **Sec. 21.** RCW 71.05.690 and 2005 c 504 s 714 are each amended to  
23 read as follows:

24 The department shall adopt rules to implement RCW 71.05.620  
25 (~~(through 71.05.680)~~).

26 **Sec. 22.** RCW 71.24.035 and 2011 c 148 s 4 are each amended to read  
27 as follows:

28 (1) The department is designated as the state mental health  
29 authority.

30 (2) The secretary shall provide for public, client, and licensed  
31 service provider participation in developing the state mental health  
32 program, developing contracts with regional support networks, and any  
33 waiver request to the federal government under medicaid.

1 (3) The secretary shall provide for participation in developing the  
2 state mental health program for children and other underserved  
3 populations, by including representatives on any committee established  
4 to provide oversight to the state mental health program.

5 (4) The secretary shall be designated as the regional support  
6 network if the regional support network fails to meet state minimum  
7 standards or refuses to exercise responsibilities under RCW 71.24.045,  
8 until such time as a new regional support network is designated under  
9 RCW 71.24.320.

10 (5) The secretary shall:

11 (a) Develop a biennial state mental health program that  
12 incorporates regional biennial needs assessments and regional mental  
13 health service plans and state services for adults and children with  
14 mental illness. The secretary shall also develop a six-year state  
15 mental health plan;

16 (b) Assure that any regional or county community mental health  
17 program provides access to treatment for the region's residents,  
18 including parents who are respondents in dependency cases, in the  
19 following order of priority: (i) Persons with acute mental illness;  
20 (ii) adults with chronic mental illness and children who are severely  
21 emotionally disturbed; and (iii) persons who are seriously disturbed.  
22 Such programs shall provide:

23 (A) Outpatient services;

24 (B) Emergency care services for twenty-four hours per day;

25 (C) Day treatment for persons with mental illness which includes  
26 training in basic living and social skills, supported work, vocational  
27 rehabilitation, and day activities. Such services may include  
28 therapeutic treatment. In the case of a child, day treatment includes  
29 age-appropriate basic living and social skills, educational and  
30 prevocational services, day activities, and therapeutic treatment;

31 (D) Screening for patients being considered for admission to state  
32 mental health facilities to determine the appropriateness of admission;

33 (E) Employment services, which may include supported employment,  
34 transitional work, placement in competitive employment, and other work-  
35 related services, that result in persons with mental illness becoming  
36 engaged in meaningful and gainful full or part-time work. Other  
37 sources of funding such as the division of vocational rehabilitation

1 may be utilized by the secretary to maximize federal funding and  
2 provide for integration of services;

3 (F) Consultation and education services; and

4 (G) Community support services;

5 (c) Develop and adopt rules establishing state minimum standards  
6 for the delivery of mental health services pursuant to RCW 71.24.037  
7 including, but not limited to:

8 (i) Licensed service providers. These rules shall permit a county-  
9 operated mental health program to be licensed as a service provider  
10 subject to compliance with applicable statutes and rules. The  
11 secretary shall provide for deeming of compliance with state minimum  
12 standards for those entities accredited by recognized behavioral health  
13 accrediting bodies recognized and having a current agreement with the  
14 department;

15 (ii) Regional support networks; and

16 (iii) Inpatient services, evaluation and treatment services and  
17 facilities under chapter 71.05 RCW, resource management services, and  
18 community support services;

19 (d) Assure that the special needs of persons who are minorities,  
20 elderly, disabled, children, low-income, and parents who are  
21 respondents in dependency cases are met within the priorities  
22 established in this section;

23 (e) Establish a standard contract or contracts, consistent with  
24 state minimum standards, RCW 71.24.320 and 71.24.330, which shall be  
25 used in contracting with regional support networks. The standard  
26 contract shall include a maximum fund balance, which shall be  
27 consistent with that required by federal regulations or waiver  
28 stipulations;

29 (f) Establish, to the extent possible, a standardized auditing  
30 procedure which minimizes paperwork requirements of regional support  
31 networks and licensed service providers. The audit procedure shall  
32 focus on the outcomes of service and not the processes for  
33 accomplishing them;

34 (g) Develop and maintain an information system to be used by the  
35 state and regional support networks that includes a tracking method  
36 which allows the department and regional support networks to identify  
37 mental health clients' participation in any mental health service or  
38 public program on an immediate basis. The information system shall not

1 include individual patient's case history files. Confidentiality of  
2 client information and records shall be maintained as provided in this  
3 chapter and (~~in RCW 71.05.390, 71.05.420, and 71.05.440~~) chapter  
4 70.02 RCW;

5 (h) License service providers who meet state minimum standards;

6 (i) Certify regional support networks that meet state minimum  
7 standards;

8 (j) Periodically monitor the compliance of certified regional  
9 support networks and their network of licensed service providers for  
10 compliance with the contract between the department, the regional  
11 support network, and federal and state rules at reasonable times and in  
12 a reasonable manner;

13 (k) Fix fees to be paid by evaluation and treatment centers to the  
14 secretary for the required inspections;

15 (l) Monitor and audit regional support networks and licensed  
16 service providers as needed to assure compliance with contractual  
17 agreements authorized by this chapter;

18 (m) Adopt such rules as are necessary to implement the department's  
19 responsibilities under this chapter;

20 (n) Assure the availability of an appropriate amount, as determined  
21 by the legislature in the operating budget by amounts appropriated for  
22 this specific purpose, of community-based, geographically distributed  
23 residential services;

24 (o) Certify crisis stabilization units that meet state minimum  
25 standards;

26 (p) Certify clubhouses that meet state minimum standards; and

27 (q) Certify triage facilities that meet state minimum standards.

28 (6) The secretary shall use available resources only for regional  
29 support networks, except to the extent authorized, and in accordance  
30 with any priorities or conditions specified, in the biennial  
31 appropriations act.

32 (7) Each certified regional support network and licensed service  
33 provider shall file with the secretary, on request, such data,  
34 statistics, schedules, and information as the secretary reasonably  
35 requires. A certified regional support network or licensed service  
36 provider which, without good cause, fails to furnish any data,  
37 statistics, schedules, or information as requested, or files fraudulent

1 reports thereof, may have its certification or license revoked or  
2 suspended.

3 (8) The secretary may suspend, revoke, limit, or restrict a  
4 certification or license, or refuse to grant a certification or license  
5 for failure to conform to: (a) The law; (b) applicable rules and  
6 regulations; (c) applicable standards; or (d) state minimum standards.

7 (9) The superior court may restrain any regional support network or  
8 service provider from operating without certification or a license or  
9 any other violation of this section. The court may also review,  
10 pursuant to procedures contained in chapter 34.05 RCW, any denial,  
11 suspension, limitation, restriction, or revocation of certification or  
12 license, and grant other relief required to enforce the provisions of  
13 this chapter.

14 (10) Upon petition by the secretary, and after hearing held upon  
15 reasonable notice to the facility, the superior court may issue a  
16 warrant to an officer or employee of the secretary authorizing him or  
17 her to enter at reasonable times, and examine the records, books, and  
18 accounts of any regional support network or service provider refusing  
19 to consent to inspection or examination by the authority.

20 (11) Notwithstanding the existence or pursuit of any other remedy,  
21 the secretary may file an action for an injunction or other process  
22 against any person or governmental unit to restrain or prevent the  
23 establishment, conduct, or operation of a regional support network or  
24 service provider without certification or a license under this chapter.

25 (12) The standards for certification of evaluation and treatment  
26 facilities shall include standards relating to maintenance of good  
27 physical and mental health and other services to be afforded persons  
28 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall  
29 otherwise assure the effectuation of the purposes of these chapters.

30 (13) The standards for certification of crisis stabilization units  
31 shall include standards that:

32 (a) Permit location of the units at a jail facility if the unit is  
33 physically separate from the general population of the jail;

34 (b) Require administration of the unit by mental health  
35 professionals who direct the stabilization and rehabilitation efforts;  
36 and

37 (c) Provide an environment affording security appropriate with the  
38 alleged criminal behavior and necessary to protect the public safety.



1 (14) The standards for certification of a clubhouse shall at a  
2 minimum include:

3 (a) The facilities may be peer-operated and must be  
4 recovery-focused;

5 (b) Members and employees must work together;

6 (c) Members must have the opportunity to participate in all the  
7 work of the clubhouse, including administration, research, intake and  
8 orientation, outreach, hiring, training and evaluation of staff, public  
9 relations, advocacy, and evaluation of clubhouse effectiveness;

10 (d) Members and staff and ultimately the clubhouse director must be  
11 responsible for the operation of the clubhouse, central to this  
12 responsibility is the engagement of members and staff in all aspects of  
13 clubhouse operations;

14 (e) Clubhouse programs must be comprised of structured activities  
15 including but not limited to social skills training, vocational  
16 rehabilitation, employment training and job placement, and community  
17 resource development;

18 (f) Clubhouse programs must provide in-house educational programs  
19 that significantly utilize the teaching and tutoring skills of members  
20 and assist members by helping them to take advantage of adult education  
21 opportunities in the community;

22 (g) Clubhouse programs must focus on strengths, talents, and  
23 abilities of its members;

24 (h) The work-ordered day may not include medication clinics, day  
25 treatment, or other therapy programs within the clubhouse.

26 (15) The department shall distribute appropriated state and federal  
27 funds in accordance with any priorities, terms, or conditions specified  
28 in the appropriations act.

29 (16) The secretary shall assume all duties assigned to the  
30 nonparticipating regional support networks under chapters 71.05((~~7~~))  
31 and 71.34((~~7~~)) RCW and ((~~71.24~~—RCW)) this chapter. Such  
32 responsibilities shall include those which would have been assigned to  
33 the nonparticipating counties in regions where there are not  
34 participating regional support networks.

35 The regional support networks, or the secretary's assumption of all  
36 responsibilities under chapters 71.05((~~7~~)) and 71.34((~~7~~)) RCW and  
37 ((~~71.24~~—RCW)) this chapter, shall be included in all state and federal  
38 plans affecting the state mental health program including at least

1 those required by this chapter, the medicaid program, and P.L. 99-660.  
2 Nothing in these plans shall be inconsistent with the intent and  
3 requirements of this chapter.

4 (17) The secretary shall:

5 (a) Disburse funds for the regional support networks within sixty  
6 days of approval of the biennial contract. The department must either  
7 approve or reject the biennial contract within sixty days of receipt.

8 (b) Enter into biennial contracts with regional support networks.  
9 The contracts shall be consistent with available resources. No  
10 contract shall be approved that does not include progress toward  
11 meeting the goals of this chapter by taking responsibility for: (i)  
12 Short-term commitments; (ii) residential care; and (iii) emergency  
13 response systems.

14 (c) Notify regional support networks of their allocation of  
15 available resources at least sixty days prior to the start of a new  
16 biennial contract period.

17 (d) Deny all or part of the funding allocations to regional support  
18 networks based solely upon formal findings of noncompliance with the  
19 terms of the regional support network's contract with the department.  
20 Regional support networks disputing the decision of the secretary to  
21 withhold funding allocations are limited to the remedies provided in  
22 the department's contracts with the regional support networks.

23 (18) The department, in cooperation with the state congressional  
24 delegation, shall actively seek waivers of federal requirements and  
25 such modifications of federal regulations as are necessary to allow  
26 federal medicaid reimbursement for services provided by freestanding  
27 evaluation and treatment facilities certified under chapter 71.05 RCW.  
28 The department shall periodically report its efforts to the appropriate  
29 committees of the senate and the house of representatives.

30 NEW SECTION. **Sec. 23.** The following acts or parts of acts are  
31 each repealed:

32 (1) RCW 70.24.105 (Disclosure of HIV antibody test or testing or  
33 treatment of sexually transmitted diseases--Exchange of medical  
34 information) and 2011 c 232 s 1;

35 (2) RCW 71.05.390 (Confidential information and records--  
36 Disclosure) and 2011 c 305 s 4;

- 1 (3) RCW 71.05.640 (Treatment records--Access procedures) and 2005  
2 c 504 s 712, 2005 c 504 s 113, 2000 c 94 s 11, & 1999 c 13 s 9;
- 3 (4) RCW 71.05.385 (Information subject to disclosure to authorized  
4 persons--Restrictions) and 2011 1st sp.s. c 40 s 23 & 2009 c 320 s 2;
- 5 (5) RCW 71.05.420 (Records of disclosure) and 2009 c 217 s 7, 2005  
6 c 504 s 110, 1990 c 3 s 113, & 1973 1st ex.s. c 142 s 47;
- 7 (6) RCW 71.05.440 (Action for unauthorized release of confidential  
8 information--Liquidated damages--Treble damages--Injunction) and 1990  
9 c 3 s 114, 1974 ex.s. c 145 s 28, & 1973 1st ex.s. c 142 s 49;
- 10 (7) RCW 71.05.427 (Persons committed following dismissal of sex  
11 offense--Release of information authorized) and 1990 c 3 s 110;
- 12 (8) RCW 71.05.510 (Damages for excessive detention) and 1974 ex.s.  
13 c 145 s 30 & 1973 1st ex.s. c 142 s 56;
- 14 (9) RCW 71.34.340 (Information concerning treatment of minors  
15 confidential--Disclosure--Admissible as evidence with written consent)  
16 and 2011 c 305 s 9, 2005 c 453 s 6, 2000 c 75 s 7, & 1985 c 354 s 18;
- 17 (10) RCW 71.34.345 (Mental health services information--Release to  
18 department of corrections--Rules) and 2004 c 166 s 8, 2002 c 39 s 1, &  
19 2000 c 75 s 2; and
- 20 (11) RCW 71.34.350 (Disclosure of information or records--Required  
21 entries in minor's clinical record) and 1985 c 354 s 22.

22 NEW SECTION. **Sec. 24.** This act takes effect August 1, 2013.

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