

- 1 (4) "Custody" has the same meaning as in RCW 71.05.020.
- 2 (5) "Deidentified" means health information that does not identify
3 an individual and with respect to which there is no reasonable basis to
4 believe that the information can be used to identify an individual.
- 5 (6) "Department" means the department of social and health
6 services.
- 7 (7) "Designated mental health professional" has the same meaning as
8 in RCW 71.05.020 or 71.34.020, as applicable.
- 9 (8) "Detention" or "detain" has the same meaning as in RCW
10 71.05.020.
- 11 (9) "Directory information" means information disclosing the
12 presence, and for the purpose of identification, the name, location
13 within a health care facility, and the general health condition of a
14 particular patient who is a patient in a health care facility or who is
15 currently receiving emergency health care in a health care facility.
- 16 (10) "Discharge" has the same meaning as in RCW 71.05.020.
- 17 (11) "Evaluation and treatment facility" has the same meaning as in
18 RCW 71.05.020 or 71.34.020, as applicable.
- 19 (12) "Federal, state, or local law enforcement authorities" means
20 an officer of any agency or authority in the United States, a state, a
21 tribe, a territory, or a political subdivision of a state, a tribe, or
22 a territory who is empowered by law to: (a) Investigate or conduct an
23 official inquiry into a potential criminal violation of law; or (b)
24 prosecute or otherwise conduct a criminal proceeding arising from an
25 alleged violation of law.
- 26 (13) "General health condition" means the patient's health status
27 described in terms of "critical," "poor," "fair," "good," "excellent,"
28 or terms denoting similar conditions.
- 29 (14) "Health care" means any care, service, or procedure provided
30 by a health care provider:
- 31 (a) To diagnose, treat, or maintain a patient's physical or mental
32 condition; or
- 33 (b) That affects the structure or any function of the human body.
- 34 (15) "Health care facility" means a hospital, clinic, nursing home,
35 laboratory, office, or similar place where a health care provider
36 provides health care to patients.
- 37 (16) "Health care information" means any information, whether oral
38 or recorded in any form or medium, that identifies or can readily be

1 associated with the identity of a patient and directly relates to the
2 patient's health care, including a patient's deoxyribonucleic acid and
3 identified sequence of chemical base pairs. The term includes any
4 required accounting of disclosures of health care information.

5 (17) "Health care operations" means any of the following activities
6 of a health care provider, health care facility, or third-party payor
7 to the extent that the activities are related to functions that make an
8 entity a health care provider, a health care facility, or a third-party
9 payor:

10 (a) Conducting: Quality assessment and improvement activities,
11 including outcomes evaluation and development of clinical guidelines,
12 if the obtaining of generalizable knowledge is not the primary purpose
13 of any studies resulting from such activities; population-based
14 activities relating to improving health or reducing health care costs,
15 protocol development, case management and care coordination, contacting
16 of health care providers and patients with information about treatment
17 alternatives; and related functions that do not include treatment;

18 (b) Reviewing the competence or qualifications of health care
19 professionals, evaluating practitioner and provider performance and
20 third-party payor performance, conducting training programs in which
21 students, trainees, or practitioners in areas of health care learn
22 under supervision to practice or improve their skills as health care
23 providers, training of nonhealth care professionals, accreditation,
24 certification, licensing, or credentialing activities;

25 (c) Underwriting, premium rating, and other activities relating to
26 the creation, renewal, or replacement of a contract of health insurance
27 or health benefits, and ceding, securing, or placing a contract for
28 reinsurance of risk relating to claims for health care, including stop-
29 loss insurance and excess of loss insurance, if any applicable legal
30 requirements are met;

31 (d) Conducting or arranging for medical review, legal services, and
32 auditing functions, including fraud and abuse detection and compliance
33 programs;

34 (e) Business planning and development, such as conducting cost-
35 management and planning-related analyses related to managing and
36 operating the health care facility or third-party payor, including
37 formulary development and administration, development, or improvement
38 of methods of payment or coverage policies; and

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

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

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

10 (iii) Resolution of internal grievances;

11 (iv) The sale, transfer, merger, or consolidation of all or part of
12 a health care provider, health care facility, or third-party payor with
13 another health care provider, health care facility, or third-party
14 payor or an entity that following such activity will become a health
15 care provider, health care facility, or third-party payor, and due
16 diligence related to such activity; and

17 (v) Consistent with applicable legal requirements, creating
18 deidentified health care information or a limited dataset for the
19 benefit of the health care provider, health care facility, or third-
20 party payor.

21 (18) "Health care provider" means a person who is licensed,
22 certified, registered, or otherwise authorized by the law of this state
23 to provide health care in the ordinary course of business or practice
24 of a profession.

25 (19) "Human immunodeficiency virus" or "HIV" has the same meaning
26 as in RCW 70.24.017.

27 (20) "Imminent" has the same meaning as in RCW 71.05.020.

28 (21) "Information and records related to mental health services"
29 means a type of health care information that relates to all information
30 and records(~~(, including mental health treatment records,)~~) compiled,
31 obtained, or maintained in the course of providing services by a mental
32 health service agency(~~(, as defined in this section)~~) or mental health
33 professional to persons who are receiving or have received services for
34 mental illness. The term includes mental health information contained
35 in a medical bill, registration records, as defined in RCW 71.05.020,
36 and all other records regarding the person maintained by the
37 department, by regional support networks and their staff, and by
38 treatment facilities. ((This may)) The term further includes documents

1 of legal proceedings under chapter 71.05, 71.34, or 10.77 RCW, or
2 somatic health care information. For health care information
3 maintained by a hospital as defined in RCW 70.41.020 or a health care
4 facility or health care provider that participates with a hospital in
5 an organized health care arrangement defined under federal law,
6 "information and records related to mental health services" is limited
7 to information and records of services provided by a mental health
8 professional or information and records of services created by a
9 hospital-operated community mental health program as defined in RCW
10 71.24.025(6). The term does not include psychotherapy notes.

11 (22) "Information and records related to sexually transmitted
12 diseases" means a type of health care information that relates to the
13 identity of any person upon whom an HIV antibody test or other sexually
14 transmitted infection test is performed, the results of such tests, and
15 any information relating to diagnosis of or treatment for any confirmed
16 sexually transmitted infections.

17 (23) "Institutional review board" means any board, committee, or
18 other group formally designated by an institution, or authorized under
19 federal or state law, to review, approve the initiation of, or conduct
20 periodic review of research programs to assure the protection of the
21 rights and welfare of human research subjects.

22 (24) "Legal counsel" has the same meaning as in RCW 71.05.020.

23 (25) "Local public health officer" has the same meaning as in RCW
24 70.24.017.

25 (26) "Maintain," as related to health care information, means to
26 hold, possess, preserve, retain, store, or control that information.

27 (27) "Mental health professional" (~~has the same meaning as in RCW~~
28 ~~71.05.020~~) means a psychiatrist, psychologist, psychiatric advanced
29 registered nurse practitioner, psychiatric nurse, or social worker, and
30 such other mental health professionals as may be defined by rules
31 adopted by the secretary of social and health services under chapter
32 71.05 RCW, whether that person works in a private or public setting.

33 (28) "Mental health service agency" means a public or private
34 agency that provides services to persons with mental disorders as
35 defined under RCW 71.05.020 or 71.34.020 and receives funding from
36 public sources. This includes evaluation and treatment facilities as
37 defined in RCW 71.34.020, community mental health service delivery

1 systems, or community mental health programs, as defined in RCW
2 71.24.025, and facilities conducting competency evaluations and
3 restoration under chapter 10.77 RCW.

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

17 ~~(30))~~ "Minor" has the same meaning as in RCW 71.34.020.

18 ~~((31))~~ (30) "Parent" has the same meaning as in RCW 71.34.020.

19 ~~((32))~~ (31) "Patient" means an individual who receives or has
20 received health care. The term includes a deceased individual who has
21 received health care.

22 ~~((33))~~ (32) "Payment" means:

23 (a) The activities undertaken by:

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

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

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

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

36 (ii) Risk adjusting amounts due based on enrollee health status and
37 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 (~~(+34)~~) (33) "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 (~~(+35)~~) (34) "Professional person" has the same meaning as in RCW
25 71.05.020.

26 (~~(+36)~~) (35) "Psychiatric advanced registered nurse practitioner"
27 has the same meaning as in RCW 71.05.020.

28 (~~(+37)~~) (36) "Psychotherapy notes" means notes recorded, in any
29 medium, by a mental health professional documenting or analyzing the
30 contents of conversation during a private counseling session or group,
31 joint, or family counseling session, and that are separated from the
32 rest of the individual's medical record. The term excludes mediation
33 prescription and monitoring, counseling session start and stop times,
34 the modalities and frequencies of treatment furnished, results of
35 clinical tests, and any summary of the following items: Diagnosis,
36 functional status, the treatment plan, symptoms, prognosis, and
37 progress to date.

1 (37) "Reasonable fee" means the charges for duplicating or
2 searching the record, but shall not exceed sixty-five cents per page
3 for the first thirty pages and fifty cents per page for all other
4 pages. In addition, a clerical fee for searching and handling may be
5 charged not to exceed fifteen dollars. These amounts shall be adjusted
6 biennially in accordance with changes in the consumer price index, all
7 consumers, for Seattle-Tacoma metropolitan statistical area as
8 determined by the secretary of health. However, where editing of
9 records by a health care provider is required by statute and is done by
10 the provider personally, the fee may be the usual and customary charge
11 for a basic office visit.

12 (38) "Release" has the same meaning as in RCW 71.05.020.

13 (39) "Resource management services" has the same meaning as in RCW
14 71.05.020.

15 (40) "Serious violent offense" has the same meaning as in RCW
16 71.05.020.

17 (41) "Sexually transmitted infection" or "sexually transmitted
18 disease" has the same meaning as "sexually transmitted disease" in RCW
19 70.24.017.

20 (42) "Test for a sexually transmitted disease" has the same meaning
21 as in RCW 70.24.017.

22 (43) "Third-party payor" means an insurer regulated under Title 48
23 RCW authorized to transact business in this state or other
24 jurisdiction, including a health care service contractor, and health
25 maintenance organization; or an employee welfare benefit plan,
26 excluding fitness or wellness plans; or a state or federal health
27 benefit program.

28 (44) "Treatment" means the provision, coordination, or management
29 of health care and related services by one or more health care
30 providers or health care facilities, including the coordination or
31 management of health care by a health care provider or health care
32 facility with a third party; consultation between health care providers
33 or health care facilities relating to a patient; or the referral of a
34 patient for health care from one health care provider or health care
35 facility to another.

36 **Sec. 2.** RCW 70.02.020 and 2013 c 200 s 2 are each amended to read
37 as follows:

1 (1) Except as authorized elsewhere in this chapter, a health care
2 provider, an individual who assists a health care provider in the
3 delivery of health care, or an agent and employee of a health care
4 provider may not disclose health care information about a patient to
5 any other person without the patient's written authorization. A
6 disclosure made under a patient's written authorization must conform to
7 the authorization.

8 ~~(2) ((A patient has a right to receive an accounting of all~~
9 ~~disclosures of mental health treatment records except disclosures made~~
10 ~~under RCW 71.05.425.~~

11 ~~(3))~~ A patient has a right to receive an accounting of disclosures
12 of health care information(~~(, except for mental health treatment~~
13 ~~records which are addressed in subsection (2) of this section,~~) made
14 by a health care provider or a health care facility in the six years
15 before the date on which the accounting is requested, except for
16 disclosures:

- 17 (a) To carry out treatment, payment, and health care operations;
- 18 (b) To the patient of health care information about him or her;
- 19 (c) Incident to a use or disclosure that is otherwise permitted or
20 required;
- 21 (d) Pursuant to an authorization where the patient authorized the
22 disclosure of health care information about himself or herself;
- 23 (e) Of directory information;
- 24 (f) To persons involved in the patient's care;
- 25 (g) For national security or intelligence purposes if an accounting
26 of disclosures is not permitted by law;
- 27 (h) To correctional institutions or law enforcement officials if an
28 accounting of disclosures is not permitted by law; and
- 29 (i) Of a limited data set that excludes direct identifiers of the
30 patient or of relatives, employers, or household members of the
31 patient.

32 **Sec. 3.** RCW 70.02.050 and 2013 c 200 s 3 are each amended to read
33 as follows:

34 (1) A health care provider or health care facility may disclose
35 health care information, except for information and records related to
36 sexually transmitted diseases which are addressed in RCW 70.02.220,

1 about a patient without the patient's authorization to the extent a
2 recipient needs to know the information, if the disclosure is:

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

5 (b) To any other person who requires health care information for
6 health care education, or to provide planning, quality assurance, peer
7 review, or administrative, legal, financial, actuarial services to, or
8 other health care operations for or on behalf of the health care
9 provider or health care facility; or for assisting the health care
10 provider or health care facility in the delivery of health care and the
11 health care provider or health care facility reasonably believes that
12 the person:

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

15 (ii) Will take appropriate steps to protect the health care
16 information;

17 (c) To any person if the health care provider or health care
18 facility reasonably believes that disclosure will avoid or minimize an
19 imminent danger to the health or safety of the patient or any other
20 individual, however there is no obligation under this chapter on the
21 part of the provider or facility to so disclose. The fact of admission
22 to a provider for mental health services and all information and
23 records compiled, obtained, or maintained in the course of providing
24 mental health services to either voluntary or involuntary recipients of
25 services at public or private agencies is not subject to disclosure
26 unless disclosure is permitted in RCW 70.02.230; or

27 ~~(d) ((To an official of a penal or other custodial institution in
28 which the patient is detained; or~~

29 ~~(e)))~~ For payment, including information necessary for a recipient
30 to make a claim, or for a claim to be made on behalf of a recipient for
31 aid, insurance, or medical assistance to which he or she may be
32 entitled.

33 (2) A health care provider shall disclose health care information,
34 except for information and records related to sexually transmitted
35 diseases, unless otherwise authorized in RCW 70.02.220, about a patient
36 without the patient's authorization if the disclosure is:

37 (a) To federal, state, or local public health authorities, to the
38 extent the health care provider is required by law to report health

1 care information; when needed to determine compliance with state or
2 federal licensure, certification or registration rules or laws, or to
3 investigate unprofessional conduct or ability to practice with
4 reasonable skill and safety under chapter 18.130 RCW. Any health care
5 information obtained under this subsection is exempt from public
6 inspection and copying pursuant to chapter 42.56 RCW; or

7 (b) When needed to protect the public health.

8 **Sec. 4.** RCW 70.02.200 and 2013 c 200 s 4 are each amended to read
9 as follows:

10 (1) In addition to the disclosures authorized by RCW 70.02.050 and
11 70.02.210, a health care provider or health care facility may disclose
12 health care information, except for information and records related to
13 sexually transmitted diseases and information related to mental health
14 services which are addressed by RCW 70.02.220 through 70.02.260, about
15 a patient without the patient's authorization, to:

16 (a) Any other health care provider or health care facility
17 reasonably believed to have previously provided health care to the
18 patient, to the extent necessary to provide health care to the patient,
19 unless the patient has instructed the health care provider or health
20 care facility in writing not to make the disclosure;

21 (b) Immediate family members of the patient, including a patient's
22 state registered domestic partner, or any other individual with whom
23 the patient is known to have a close personal relationship, if made in
24 accordance with good medical or other professional practice, unless the
25 patient has instructed the health care provider or health care facility
26 in writing not to make the disclosure;

27 (c) A health care provider or health care facility who is the
28 successor in interest to the health care provider or health care
29 facility maintaining the health care information;

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

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

35 (ii) Not to disclose the information further, except to accomplish
36 the audit or report unlawful or improper conduct involving fraud in

1 payment for health care by a health care provider or patient, or other
2 unlawful conduct by the health care provider;

3 (e) Provide directory information, unless the patient has
4 instructed the health care provider or health care facility not to make
5 the disclosure;

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

13 (g) Federal, state, or local law enforcement authorities and the
14 health care provider, health care facility, or third-party payor
15 believes in good faith that the health care information disclosed
16 constitutes evidence of criminal conduct that occurred on the premises
17 of the health care provider, health care facility, or third-party
18 payor; (~~and~~)

19 (h) Another health care provider, health care facility, or third-
20 party payor for the health care operations of the health care provider,
21 health care facility, or third-party payor that receives the
22 information, if each entity has or had a relationship with the patient
23 who is the subject of the health care information being requested, the
24 health care information pertains to such relationship, and the
25 disclosure is for the purposes described in RCW 70.02.010(17) (a) and
26 (b); and

27 (i) An official of a penal or other custodial institution in which
28 the patient is detained.

29 (2) In addition to the disclosures required by RCW 70.02.050 and
30 70.02.210, a health care provider shall disclose health care
31 information, except for information related to sexually transmitted
32 diseases and information related to mental health services which are
33 addressed by RCW 70.02.220 through 70.02.260, about a patient without
34 the patient's authorization if the disclosure is:

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

37 (b) To federal, state, or local law enforcement authorities, upon
38 receipt of a written or oral request made to a nursing supervisor,

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

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

25 **Sec. 5.** RCW 70.02.210 and 2013 c 200 s 5 are each amended to read
26 as follows:

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

32 ((+a)) (i) Is of sufficient importance to outweigh the intrusion
33 into the privacy of the patient that would result from the disclosure;

34 ((+b)) (ii) Is impracticable without the use or disclosure of the
35 health care information in individually identifiable form;

36 ((+c)) (iii) Contains reasonable safeguards to protect the
37 information from redisclosure;

1 ~~((d))~~ (iv) Contains reasonable safeguards to protect against
2 identifying, directly or indirectly, any patient in any report of the
3 research project; and

4 ~~((e))~~ (v) Contains procedures to remove or destroy at the
5 earliest opportunity, consistent with the purposes of the project,
6 information that would enable the patient to be identified, unless an
7 institutional review board authorizes retention of identifying
8 information for purposes of another research project.

9 (b) Disclosure under (a) of this subsection may include health care
10 information and records of treatment programs related to chemical
11 dependency addressed in chapter 70.96A RCW and as authorized by federal
12 law.

13 (2) In addition to the disclosures required by RCW 70.02.050 and
14 70.02.200, a health care provider or health care facility shall
15 disclose health care information about a patient without the patient's
16 authorization if:

17 (a) The disclosure is to county coroners and medical examiners for
18 the investigations of deaths;

19 (b) The disclosure is to a procurement organization or person to
20 whom a body part passes for the purpose of examination necessary to
21 assure the medical suitability of the body part; or

22 (c) The disclosure is to a person subject to the jurisdiction of
23 the federal food and drug administration in regards to a food and drug
24 administration-regulated product or activity for which that person has
25 responsibility for quality, safety, or effectiveness of activities.

26 **Sec. 6.** RCW 70.02.230 and 2013 c 200 s 7 are each amended to read
27 as follows:

28 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
29 70.96A.150, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260,
30 or pursuant to a valid authorization under RCW 70.02.030, the fact of
31 admission to a provider for mental health services and all information
32 and records compiled, obtained, or maintained in the course of
33 providing mental health services to either voluntary or involuntary
34 recipients of services at public or private agencies must be
35 confidential.

36 (2) Information and records related to mental health services,

1 other than those obtained through treatment under chapter 71.34 RCW,
2 may be disclosed only:

3 (a) In communications between qualified professional persons to
4 meet the requirements of chapter 71.05 RCW, in the provision of
5 services or appropriate referrals, or in the course of guardianship
6 proceedings if provided to a professional person:

- 7 (i) Employed by the facility;
- 8 (ii) Who has medical responsibility for the patient's care;
- 9 (iii) Who is a designated mental health professional;
- 10 (iv) Who is providing services under chapter 71.24 RCW;
- 11 (v) Who is employed by a state or local correctional facility where
12 the person is confined or supervised; or
- 13 (vi) Who is providing evaluation, treatment, or follow-up services
14 under chapter 10.77 RCW;

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

19 (c)(i) When the person receiving services, or his or her guardian,
20 designates persons to whom information or records may be released, or
21 if the person is a minor, when his or her parents make such a
22 designation;

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

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

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

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

35 (d)(i) To the courts as necessary to the administration of chapter
36 71.05 RCW or to a court ordering an evaluation or treatment under
37 chapter 10.77 RCW solely for the purpose of preventing the entry of any

1 evaluation or treatment order that is inconsistent with any order
2 entered under chapter 71.05 RCW.

3 (ii) To a court or its designee in which a motion under chapter
4 10.77 RCW has been made for involuntary medication of a defendant for
5 the purpose of competency restoration.

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

8 (e)(i) When a mental health professional is requested by a
9 representative of a law enforcement or corrections agency, including a
10 police officer, sheriff, community corrections officer, a municipal
11 attorney, or prosecuting attorney to undertake an investigation or
12 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the
13 mental health professional shall, if requested to do so, advise the
14 representative in writing of the results of the investigation including
15 a statement of reasons for the decision to detain or release the person
16 investigated. The written report must be submitted within seventy-two
17 hours of the completion of the investigation or the request from the
18 law enforcement or corrections representative, whichever occurs later.

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

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

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

31 (h)(i) To appropriate law enforcement agencies and to a person,
32 when the identity of the person is known to the public or private
33 agency, whose health and safety has been threatened, or who is known to
34 have been repeatedly harassed, by the patient. The person may
35 designate a representative to receive the disclosure. The disclosure
36 must be made by the professional person in charge of the public or
37 private agency or his or her designee and must include the dates of
38 commitment, admission, discharge, or release, authorized or

1 unauthorized absence from the agency's facility, and only any other
2 information that is pertinent to the threat or harassment. The agency
3 or its employees are not civilly liable for the decision to disclose or
4 not, so long as the decision was reached in good faith and without
5 gross negligence.

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

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

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

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

18 (k) Upon the death of a person. The person's next of kin, personal
19 representative, guardian, or conservator, if any, must be notified.
20 Next of kin who are of legal age and competent must be notified under
21 this section in the following order: Spouse, parents, children,
22 brothers and sisters, and other relatives according to the degree of
23 relation. Access to all records and information compiled, obtained, or
24 maintained in the course of providing services to a deceased patient
25 are governed by RCW 70.02.140;

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

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

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

1 (ii) The law enforcement and prosecuting attorneys may only release
2 the information obtained to the person's attorney as required by court
3 rule and to a jury or judge, if a jury is waived, that presides over
4 any trial at which the person is charged with violating RCW
5 9.41.040(2)(a)(ii);

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

9 (n) When a patient would otherwise be subject to the provisions of
10 this section and disclosure is necessary for the protection of the
11 patient or others due to his or her unauthorized disappearance from the
12 facility, and his or her whereabouts is unknown, notice of the
13 disappearance, along with relevant information, may be made to
14 relatives, the department of corrections when the person is under the
15 supervision of the department, and governmental law enforcement
16 agencies designated by the physician or psychiatric advanced registered
17 nurse practitioner in charge of the patient or the professional person
18 in charge of the facility, or his or her professional designee;

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

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

27 (q) Within the (~~treatment facility~~) mental health service agency
28 where the patient is receiving treatment, confidential information may
29 be disclosed to persons employed, serving in bona fide training
30 programs, or participating in supervised volunteer programs, at the
31 facility when it is necessary to perform their duties;

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

35 (s) To a licensed physician or psychiatric advanced registered
36 nurse practitioner who has determined that the life or health of the
37 person is in danger and that treatment without the information and
38 records related to mental health services (~~contained in the mental~~

1 ~~health treatment records~~) could be injurious to the patient's health.
2 Disclosure must be limited to the portions of the records necessary to
3 meet the medical emergency;

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

13 (u) To administrative and office support staff designated to obtain
14 medical records for those licensed professionals listed in (t) of this
15 subsection;

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

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

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

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

11 (y) To all current treating providers of the patient with
12 prescriptive authority who have written a prescription for the patient
13 within the last twelve months. For purposes of coordinating health
14 care, the department may release without written authorization of the
15 patient, information acquired for billing and collection purposes as
16 described in RCW 70.02.050(1)((+e)) (d). The department shall notify
17 the patient that billing and collection information has been released
18 to named providers, and provide the substance of the information
19 released and the dates of such release. The department may not release
20 counseling, inpatient psychiatric hospitalization, or drug and alcohol
21 treatment information without a signed written release from the client;

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

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

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

37 /s/"

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

5 (3) Whenever federal law or federal regulations restrict the
6 release of information contained in the (~~treatment records~~)
7 information and records related to mental health services 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 RCW 70.02.260, in a subsequent
22 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
23 or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter
24 10.77 RCW due to incompetency to stand trial, in a civil commitment
25 proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor,
26 a guardianship or dependency proceeding. The records and files
27 maintained in any court proceeding pursuant to chapter 71.05 RCW must
28 be confidential and available subsequent to such proceedings only to
29 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 (6)(a) Except as provided in RCW 4.24.550, any person may bring an
35 action against an individual who has willfully released confidential
36 information or records concerning him or her in violation of the
37 provisions of this section, for the greater of the following amounts:

38 (i) One thousand dollars; or

1 (ii) Three times the amount of actual damages sustained, if any.

2 (b) It is not a prerequisite to recovery under this subsection that
3 the plaintiff suffered or was threatened with special, as contrasted
4 with general, damages.

5 (c) Any person may bring an action to enjoin the release of
6 confidential information or records concerning him or her or his or her
7 ward, in violation of the provisions of this section, and may in the
8 same action seek damages as provided in this subsection.

9 (d) The court may award to the plaintiff, should he or she prevail
10 in any action authorized by this subsection, reasonable attorney fees
11 in addition to those otherwise provided by law.

12 (e) If an action is brought under this subsection, no action may be
13 brought under RCW 70.02.170.

14 **Sec. 7.** RCW 70.02.270 and 2013 c 200 s 11 are each amended to read
15 as follows:

16 (1) No person who receives health care information for health care
17 education, or to provide planning, quality assurance, peer review, or
18 administrative, legal, financial, or actuarial services, or other
19 health care operations for or on behalf of a health care provider or
20 health care facility, may use or disclose any health care information
21 received from the health care provider or health care facility in any
22 manner that (~~is inconsistent with the duties of the health care~~
23 ~~provider or health care facility under this chapter~~) would violate the
24 requirements of this chapter if performed by the health care provider
25 or health care facility.

26 (2) A health care provider or health care facility that has a
27 contractual relationship with a person to provide services described
28 under subsection (1) of this section (~~must~~) may terminate the
29 contractual relationship with the person if the health care provider or
30 health care facility learns that the person has engaged in a pattern of
31 activity that violates the person's duties under subsection (1) of this
32 section, unless the person took reasonable steps to correct the breach
33 of confidentiality or has discontinued the violating activity.

34 **Sec. 8.** RCW 70.02.280 and 2013 c 200 s 12 are each amended to read
35 as follows:

1 A health care provider, health care facility, and their assistants,
2 employees, agents, and contractors may not:

3 (1) Use or disclose health care information for marketing or fund-
4 raising purposes, unless permitted by federal law; or

5 (2) (~~Sell health care information to a third party, except in a~~
6 ~~form that is deidentified and aggregated; or~~

7 ~~(3)) Sell health care information to a third party, except ((for~~
8 ~~the following purposes))):~~

9 (a) For purposes of treatment or payment;

10 (b) For purposes of sale, transfer, merger, or consolidation of a
11 business;

12 (c) For purposes of remuneration to a third party for services;

13 (d) As disclosures are required by law;

14 (e) For purposes of providing access to or accounting of
15 disclosures to an individual;

16 (f) For public health purposes;

17 (g) For research;

18 (h) With an individual's authorization;

19 (i) Where a reasonable cost-based fee is paid to prepare and
20 transmit health information, where authority to disclose the
21 information is provided in this chapter; or

22 (j) In a format that is deidentified and aggregated.

23 **Sec. 9.** RCW 70.02.310 and 2013 c 200 s 15 are each amended to read
24 as follows:

25 (1) Resource management services shall establish procedures to
26 provide reasonable and timely access to information and records related
27 to mental health services for an individual (~~(mental health treatment~~
28 ~~records)). However, access may not be denied at any time to records of
29 all medications and somatic treatments received by the person.~~

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

36 (3) (~~(Mental health treatment records))~~ Information and records
37 related to mental health services may be modified prior to inspection

1 to protect the confidentiality of other patients or the names of any
2 other persons referred to in the record who gave information on the
3 condition that his or her identity remain confidential. Entire
4 documents may not be withheld to protect such confidentiality.

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

8 **Sec. 10.** RCW 70.02.340 and 2013 c 200 s 18 are each amended to
9 read as follows:

10 The department of social and health services shall adopt rules
11 related to the disclosure of (~~mental health treatment records~~)
12 information and records related to mental health services in this
13 chapter.

14 **Sec. 11.** RCW 71.05.445 and 2013 c 200 s 31 are each amended to
15 read as follows:

16 (1)(a) When a mental health service provider conducts its initial
17 assessment for a person receiving court-ordered treatment, the service
18 provider shall inquire and shall be told by the offender whether he or
19 she is subject to supervision by the department of corrections.

20 (b) When a person receiving court-ordered treatment or treatment
21 ordered by the department of corrections discloses to his or her mental
22 health service provider that he or she is subject to supervision by the
23 department of corrections, the mental health service provider shall
24 notify the department of corrections that he or she is treating the
25 offender and shall notify the offender that his or her community
26 corrections officer will be notified of the treatment, provided that if
27 the offender has received relief from disclosure pursuant to RCW
28 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the
29 mental health service provider with a copy of the order granting relief
30 from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132,
31 the mental health service provider is not required to notify the
32 department of corrections that the mental health service provider is
33 treating the offender. The notification may be written or oral and
34 shall not require the consent of the offender. If an oral notification
35 is made, it must be confirmed by a written notification. For purposes

1 of this section, a written notification includes notification by e-mail
2 or facsimile, so long as the notifying mental health service provider
3 is clearly identified.

4 (2) The information to be released to the department of corrections
5 shall include all relevant records and reports, as defined by rule,
6 necessary for the department of corrections to carry out its duties.

7 (3) The department and the department of corrections, in
8 consultation with regional support networks, mental health service
9 providers as defined in RCW 71.05.020, mental health consumers, and
10 advocates for persons with mental illness, shall adopt rules to
11 implement the provisions of this section related to the type and scope
12 of information to be released. These rules shall:

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

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

22 (4) The information received by the department of corrections under
23 this section shall remain confidential and subject to the limitations
24 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW
25 72.09.585.

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

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

36 (7) This section does not modify the terms and conditions of
37 disclosure of information related to sexually transmitted diseases
38 under chapter 70.24 RCW.

1 (8) 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 providers 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 **Sec. 12.** RCW 70.02.030 and 2005 c 468 s 3 are each amended to read
9 as follows:

10 (1) A patient may authorize a health care provider or health care
11 facility to disclose the patient's health care information. A health
12 care provider or health care facility shall honor an authorization and,
13 if requested, provide a copy of the recorded health care information
14 unless the health care provider or health care facility denies the
15 patient access to health care information under RCW 70.02.090.

16 (2) A health care provider or health care facility may charge a
17 reasonable fee for providing the health care information and is not
18 required to honor an authorization until the fee is paid.

19 (3) To be valid, a disclosure authorization to a health care
20 provider or health care facility shall:

21 (a) Be in writing, dated, and signed by the patient;

22 (b) Identify the nature of the information to be disclosed;

23 (c) Identify the name and institutional affiliation of the person
24 or class of persons to whom the information is to be disclosed;

25 (d) Identify the provider or class of providers who are to make the
26 disclosure;

27 (e) Identify the patient; and

28 (f) Contain an expiration date or an expiration event that relates
29 to the patient or the purpose of the use or disclosure.

30 (4) Unless disclosure without authorization is otherwise permitted
31 under RCW 70.02.050 or the federal health insurance portability and
32 accountability act of 1996 and its implementing regulations, an
33 authorization may permit the disclosure of health care information to
34 a class of persons that includes:

35 (a) Researchers if the health care provider or health care facility
36 obtains the informed consent for the use of the patient's health care
37 information for research purposes; or

1 (b) Third-party payors if the information is only disclosed for
2 payment purposes.

3 (5) Except as provided by this chapter, the signing of an
4 authorization by a patient is not a waiver of any rights a patient has
5 under other statutes, the rules of evidence, or common law.

6 (6) When an authorization permits the disclosure of health care
7 information to a financial institution or an employer of the patient
8 for purposes other than payment, the authorization as it pertains to
9 those disclosures shall expire (~~ninety days~~) one year after the
10 signing of the authorization, unless the authorization is renewed by
11 the patient.

12 (7) A health care provider or health care facility shall retain the
13 original or a copy of each authorization or revocation in conjunction
14 with any health care information from which disclosures are made.

15 (8) Where the patient is under the supervision of the department of
16 corrections, an authorization signed pursuant to this section for
17 health care information related to mental health or drug or alcohol
18 treatment expires at the end of the term of supervision, unless the
19 patient is part of a treatment program that requires the continued
20 exchange of information until the end of the period of treatment.

21 **Sec. 13.** RCW 70.02.045 and 2000 c 5 s 2 are each amended to read
22 as follows:

23 Third-party payors shall not release health care information
24 disclosed under this chapter, except (~~to the extent that health care~~
25 ~~providers are authorized to do so under RCW 70.02.050~~) as permitted
26 under this chapter.

27 NEW SECTION. **Sec. 14.** Sections 1 through 4 and 6 through 13 of
28 this act take effect July 1, 2014.

29 NEW SECTION. **Sec. 15.** Section 5 of this act is necessary for the
30 immediate preservation of the public peace, health, or safety, or
31 support of the state government and its existing public institutions,
32 and takes effect immediately.

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