

HOUSE BILL REPORT

HB 1413

As Reported by House Committee On: Health Care & Wellness

Title: An act relating to specifying to whom information and records related to mental health services may be disclosed for the purposes of care coordination and treatment.

Brief Description: Specifying to whom information and records related to mental health services may be disclosed for the purposes of care coordination and treatment.

Sponsors: Representatives Cody, Schmick, Macri, Harris, Jinkins, Appleton and Springer.

Brief History:

Committee Activity:

Health Care & Wellness: 2/8/17, 2/17/17 [DPS].

Brief Summary of Substitute Bill

- Expands the authority to disclose mental health information without an authorization to all health care providers when providing care to a patient.
- Allows the disclosure of mental health information to certain persons who requires it to assure coordinated care and treatment of a patient.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Harris, Jinkins, MacEwen, Maycumber, Riccelli, Robinson, Rodne, Slatter, Stonier and Tharinger.

Staff: Chris Blake (786-7392).

Background:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) establishes nationwide standards for the use, disclosure, storage, and transfer of protected health information. Entities covered by HIPAA must have a patient's authorization to use or

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disclose health care information, unless there is a specified exception. Some exceptions pertain to disclosures for treatment, payment, and health care operations; public health activities; judicial proceedings; law enforcement purposes; and research purposes. The HIPAA allows a state to establish standards that are more stringent than its provisions.

In Washington, the Uniform Health Care Information Act (UHCIA) governs the disclosure of health care information by health care providers and their agents or employees. The UHCIA provides that a health care provider may not disclose health care information about a patient unless there is a statutory exception or a written authorization by the patient. Some exceptions include disclosures for the provision of health care; quality improvement, legal, actuarial, and administrative services; research purposes; directory information; public health and law enforcement activities as required by law; and judicial proceedings.

State law allows health care providers and facilities to disclose health care information, including mental health information, without a patient's authorization to a person who requires it for providing health care operations on behalf of a health care provider or facility. The term "health care operations" encompass many activities, including case management and care coordination. Federal law also allows for disclosures to health care providers for treatment activities and for the health care provider's own health care operations activities or the health care operations activities of another entity that has had a relationship with the patient. Other state law provisions specifically addressing mental health information allow disclosures to physicians, osteopathic physicians, physician assistants, osteopathic physician assistants, nurses, and naturopaths when providing care to a person or assuring coordinated care and treatment of the person.

Summary of Substitute Bill:

The authority to disclose mental health information and records without an authorization to physicians, osteopathic physicians, physician assistants, osteopathic physician assistants, nurses, and naturopaths when providing care to a person is broadened to allow the information to be shared:

1. with any health care provider who is providing care to the patient or to whom a patient has been referred for evaluation and treatment; and
2. with any person who is working in a care coordinator role for a health care facility or health care provider or under an agreement with a health care facility or provider and requires the information to assure coordinated care and treatment of a patient.

Persons who may use or disclose the mental health information must take appropriate steps to protect it.

Substitute Bill Compared to Original Bill:

The substitute bill limits disclosures of mental health information to persons who are using it for care coordination and treatment to only those persons working in either a care coordinator role for a health care facility or health care provider, or pursuant to an agreement with a health care facility or health care provider.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2, relating to the disclosure of information and records related to mental health services, which takes effect April 1, 2018.

Staff Summary of Public Testimony:

(In support) There is confusion in state law over allowing the disclosure of health care information because there are two overlapping standards related to care coordination and this bill will clear up confusion so that mental health information can be used for care coordination purposes.

Care coordinators are used in many settings to optimize care and ensure continuity of care as patients leave the hospital and this bill provides for comprehensive holistic treatment. Care coordinators are trained to help patients navigate the health care system and provide continuity among settings and if care coordinators can access mental health information it will give them more information to support patients in the community. Broader sharing of health care information will equalize access to care and reduce stigma. This bill removes barriers and moves toward a more integrated model. Care coordinators are trained in confidentiality laws. Care coordinators need to have the full picture about a patient and knowing about mental health conditions can help provide more complete care.

(Opposed) The "any person" language is too broad and needs to be limited to medical staff providing ongoing treatment of the individual. The bill should require the provider to document why the information was provided to the person.

(Other) The current version is overbroad, but the bill will be supported with an amendment.

Persons Testifying: (In support) Zosia Stanley, Washington State Hospital Association; Brigitte Folz, Harborview Medical Center; and Melissa Johnson, Project Access Northwest.

(Opposed) Mike De Fleice, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

(Other) Seth Dawson, National Alliance on Mental Illness.

Persons Signed In To Testify But Not Testifying: None.