
Health Care & Wellness Committee

HB 1477

Brief Description: Concerning disclosure of health-related information with persons with a close relationship with a patient.

Sponsors: Representatives Kilduff, Muri, Lytton, Stambaugh, Orwall, McDonald, Robinson, Lovick, Goodman, Sells, Appleton and Fey.

Brief Summary of Bill

- Permits personal health information to be disclosed to a family member or close relation of the patient if the disclosure is related to the person's involvement with the patient's health care.
- Allows for health care information to be disclosed to avoid or minimize a serious and urgent threat, rather than an imminent danger.

Hearing Date: 2/8/17

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 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

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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.

Both state and federal law allow for the disclosure of health care information without an authorization in cases in which the disclosure is to an immediate family member or a person with a close relationship with the patient. Under state law, the disclosure does not apply to information related to mental health or sexually-transmitted diseases. State law allows the disclosure as long as the patient has not instructed the health care provider in writing not to make the disclosure. Federal law allows for a similar disclosure, however, it does not exclude information related to mental health and sexually-transmitted diseases. Under federal law, the recipient of the information must be involved in the patient's health care or payment related to the health care. The determination will vary based upon whether the patient is present and has the capacity to make health care decisions.

Both state and federal law allow for the disclosure of health care information when the health care provider believes that it is necessary to avoid or minimize an imminent danger to a patient or other person. The standards are similar, except that state law allow for the disclosure to be made to any person when there is an "imminent danger," while federal law restricts the disclosure to a person reasonably able to prevent or lessen a "serious and imminent threat."

Summary of Bill:

Disclosure of protected health information to family members and close relations.

A health care provider may disclose protected health information without an individual's consent if the disclosure is:

- (1) to a family member of an individual, a close friend of the individual, or another person identified by the individual if the disclosure is directly related to the recipient's involvement with the individual's health care; or
- (2) is for the purpose of notifying a family member, a personal representative, or another person responsible for the care of the individual, or the individual's location, general condition, or death.

If the individual is not present or if obtaining an authorization is impracticable due to incapacity or an emergency situation, the disclosure is permissible without an authorization if the health care provider determines that the disclosure is in the best interests of the individual. If the individual is present, the disclosure is permissible if he or she has an opportunity to object to a disclosure and does not expressly object or the health care provider infers from the circumstances that the individual does not object.

If a person is being treated for a mental disorder, the disclosure may include the individual's diagnosis and treatment recommendations; safety concerns related to the individual; information about available resources, such as case management and support; and the process to ensure safe transitions to different levels of care.

Disclosure of health care information related to serious and urgent threats.

The authority of a health care provider to disclose certain health care information that is believed will avoid or minimize an imminent danger to the patient or another person is changed to allow the information to be disclosed if there is a "serious and urgent threat," rather than an "imminent danger," to any person or the public. The term "serious and urgent threat" is defined as a substantial risk of impending physical harm that requires immediate action or attention. The information may only be disclosed to persons who are reasonably able to prevent or lessen the threat.

The restriction on sharing the fact of admission for mental health services and information and records related to receiving mental health services is removed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3 and 6, relating to definitions and the sharing of information and records related to mental health disclosures, which take effect April 1, 2018.