FINAL BILL REPORT
SHB 1477

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Synopsis as Enacted

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

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Kilduff, Muri, Lytton, Stambaugh, Orwall, McDonald, Robinson, Lovick, Goodman, Sells, Appleton and Fey).

House Committee on Health Care & Wellness
Senate Committee on Human Services, Mental Health & Housing

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 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. State law allows the disclosure as long as the patient has not instructed the health care provider in writing not to make the disclosure. Under state law, information related to mental health or sexually transmitted diseases is excluded. Federal law allows for a similar disclosure; however, it does not exclude information related to mental health and sexually transmitted diseases. Under federal law,

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the recipient of the information must be involved in the patient's health care or payment related to the health care. The determination of whether or not to disclose 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 another 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:

A health care provider or health care facility may disclose health care information without a patient's authorization if the disclosure is:

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

If the patient 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 or health care facility determines that, in its professional judgment, the disclosure is in the best interests of the patient. In such circumstances, the health care provider or health care facility may only disclose information directly relevant to the person's involvement with the patient's health care.

If the patient is present, the disclosure is permissible if the health care provider or health care facility: (1) obtains the patient's agreement; (2) provides the patient an opportunity to object and the patient does not expressly object; or (3) infers from the circumstances that the patient does not object.

Disclosures of information related to mental health services may include the patient's diagnosis and treatment recommendations; safety concerns related to the patient; information about available resources, such as case management and support; and the process to ensure safe transitions to different levels of care.

Immunity from civil liability is provided for health care providers and health care facilities when making or not making a disclosure.

The authority of a health care provider or health care facility to disclose health care information that the provider believes will "avoid or minimize an imminent danger" to the patient or another person is changed to allow the information to be disclosed if the provider believes in good faith that it will "prevent or lessen a serious and imminent threat" to any person or the public. 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.

Votes on Final Passage:

House	69	28	
Senate	47	2	(Senate amended)
House			(House refused to concur)
Senate	48	1	(Senate receded/amended)
House	74	22	(House concurred)

Effective: July 23, 2017
April 1, 2018 (Section 6)