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SENATE BILL 5124

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State of Washington

65th Legislature

2017 Regular Session

By Senators Rivers, Cleveland, Keiser, and Kuderer; by request of Insurance Commissioner

Read first time 01/13/17. Referred to Committee on Health Care.

1 AN ACT Relating to nonpublic personal health information; and  
2 adding a new section to chapter 48.02 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.02  
5 RCW to read as follows:

6 (1) All nonpublic personal health information obtained by,  
7 disclosed to, or in the custody of the commissioner, regardless of  
8 the form or medium, is confidential and is subject to public  
9 disclosure. The commissioner shall not disclose nonpublic personal  
10 health information except in the furtherance of regulatory or legal  
11 action brought as a part of the commissioner's official duties.

12 (2) For purposes of this section, the following definitions  
13 apply:

14 (a) "Health information" means any information or data, except  
15 age or gender, whether oral or recorded in any form or medium,  
16 created by or derived from a health care provider or a patient, or a  
17 policyholder or enrollee, that relates to:

18 (i) The past, present, or future physical, mental, or behavioral  
19 health or condition of an individual;

20 (ii) The provision of health care to an individual; or

21 (iii) Payment for the provision of health care to an individual.

1 (b) "Health care" means preventive, diagnostic, therapeutic,  
2 rehabilitative, maintenance, or palliative care, services,  
3 procedures, tests, or counseling that:

4 (i) Relates to the physical, mental, or behavioral condition of  
5 an individual;

6 (ii) Affects the structure or function of the human body or any  
7 part of the human body, including the banking of blood, sperm,  
8 organs, or any other tissue; or

9 (iii) Prescribes, dispenses, or furnishes to an individual drugs  
10 or biologicals, or medical devices or health care equipment and  
11 supplies.

12 (c) "Nonpublic personal health information" means health  
13 information:

14 (i) That identifies an individual who is the subject of the  
15 information; or

16 (ii) With respect to which there is a reasonable basis to believe  
17 that the information could be used to identify an individual.

18 (d) "Patient" means an individual who is receiving, has received,  
19 or has sought health care. The term includes a deceased individual  
20 who has received health care.

21 (e) "Policyholder" or "enrollee" means a person who is covered  
22 by, enrolled in, has applied for, or purchased, an insurance policy,  
23 a health plan as defined in RCW 48.43.005, a group plan, or any other  
24 product regulated by the insurance commissioner. "Policyholder" or  
25 "enrollee" may include, without limitation, a subscriber, member,  
26 annuitant, beneficiary, spouse, or dependent.

27 (3) The commissioner may:

28 (a) Share documents, materials, or other information, including  
29 the confidential documents, materials, or information subject to  
30 subsection (1) of this section, with (i) the national association of  
31 insurance commissioners and its affiliates and subsidiaries, and (ii)  
32 regulatory and law enforcement officials of this and other states and  
33 nations, the federal government, and international authorities, if  
34 the recipient agrees to maintain the confidentiality and privileged  
35 status of the document, material, or other information;

36 (b) Receive documents, materials, or information, including  
37 otherwise either confidential or privileged documents, materials, or  
38 information, from (i) the national association of insurance  
39 commissioners and its affiliates and subsidiaries, and (ii)  
40 regulatory and law enforcement officials of this and other states and

1 nations, the federal government, and international authorities and  
2 must maintain as confidential or privileged any document, material,  
3 or information received that is either confidential or privileged, or  
4 both, under the laws of the jurisdiction that is the source of the  
5 document, material, or information; and

6 (c) Enter into agreements governing the sharing and use of  
7 information consistent with this subsection.

8 (4) No waiver of an existing claim of confidentiality or  
9 privilege in the documents, materials, or information may occur as a  
10 result of disclosure to the commissioner under this section or as a  
11 result of sharing as authorized in subsection (3) of this section.

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