
SUBSTITUTE SENATE BILL 5254

State of Washington

69th Legislature

2025 Regular Session

By Senate Health & Long-Term Care (originally sponsored by Senators Orwall, Trudeau, Frame, Nobles, Valdez, and C. Wilson)

READ FIRST TIME 02/21/25.

1 AN ACT Relating to strengthening patients' rights regarding their
2 health care information by promoting access to information and
3 providing enforcement protections for the appropriate use of the
4 information; amending RCW 70.02.010, 70.02.030, 70.02.080, 70.02.090,
5 70.02.170, and 70.02.220; reenacting and amending RCW 70.02.260; and
6 adding a new section to chapter 70.02 RCW.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.02
9 RCW to read as follows:

10 (1) Except as provided in subsection (2) of this section, RCW
11 70.02.370, and the federal health insurance portability and
12 accountability act of 1996 and its implementing regulations, a health
13 care provider or health care facility may charge a reasonable fee, in
14 accordance with the department of health's standards established in
15 subsection (3) of this section, for providing health care information
16 to a person and is not required to honor an authorization until the
17 fee is paid.

18 (2)(a) A health care provider or health care facility may not
19 charge a fee of more than \$50 for providing a patient's health care
20 information that is stored electronically and delivered in an
21 electronic format to:

- 1 (i) The patient;
- 2 (ii) The patient's representative, including a person authorized
3 to consent to health care for the patient under RCW 70.02.130;
- 4 (iii) A licensed attorney who is representing the patient or the
5 patient's estate;
- 6 (iv) A health care provider or health care facility providing
7 health care services to the patient;
- 8 (v) A community-based or system-based advocate designated by the
9 patient; or
- 10 (vi) The patient's guardian.
- 11 (b) The \$50 fee limit for providing electronic health records in
12 an electronic format in (a) of this subsection applies to any third
13 party acting on behalf of a health care provider or health care
14 facility, including any agent, vendor, or business associate.
- 15 (3) The department of health shall adopt rules to establish
16 standards for a reasonable fee that a health care provider or health
17 care facility may charge for providing access to or exchanging health
18 care information. The standards must recognize the prevalence of the
19 use of electronic health record searching and exchange capabilities
20 and consider federal laws related to the establishment of fees for
21 accessing and exchanging health care information. The standards must
22 be based upon the actual costs of searching and producing the
23 particular patient's records and may not be based upon a per page
24 calculation.

25 **Sec. 2.** RCW 70.02.010 and 2024 c 209 s 31 are each amended to
26 read as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise.

29 (1) "Admission" has the same meaning as in RCW 71.05.020.

30 (2) "Audit" means an assessment, evaluation, determination, or
31 investigation of a health care provider by a person not employed by
32 or affiliated with the provider to determine compliance with:

33 (a) Statutory, regulatory, fiscal, medical, or scientific
34 standards;

35 (b) A private or public program of payments to a health care
36 provider; or

37 (c) Requirements for licensing, accreditation, or certification.

38 (3) "Authority" means the Washington state health care authority.

39 (4) "Commitment" has the same meaning as in RCW 71.05.020.

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

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

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

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

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

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

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

36 (e) Business planning and development, such as conducting cost-
37 management and planning-related analyses related to managing and
38 operating the health care facility or third-party payor, including
39 formulary development and administration, development, or improvement
40 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
7 for policyholders, plan sponsors, or other customers, provided that
8 health care information is not disclosed to such policyholder, plan
9 sponsor, or customer;

10 (iii) Resolution of internal grievances;

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

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

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

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

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

28 (22) "Indian health care provider" has the same meaning as in RCW
29 43.71B.010(11).

30 (23) "Information and records related to mental health services"
31 means a type of health care information that relates to all
32 information and records compiled, obtained, or maintained in the
33 course of providing services by a mental health service agency or
34 mental health professional to persons who are receiving or have
35 received services for mental illness. The term includes mental health
36 information contained in a medical bill, registration records, and
37 all other records regarding the person maintained by the department,
38 by the authority, by behavioral health administrative services
39 organizations and their staff, managed care organizations contracted
40 with the authority under chapter 74.09 RCW and their staff, and by

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

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

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

23 ~~(26) ("Legal counsel" has the same meaning as in RCW 71.05.020.~~

24 ~~(27))~~ (27) "Local public health officer" has the same meaning as the
25 term "local health officer" as defined in RCW 70.24.017.

26 ~~((28))~~ (27) "Maintain," as related to health care information,
27 means to hold, possess, preserve, retain, store, or control that
28 information.

29 ~~((29))~~ (28) "Managed care organization" has the same meaning as
30 provided in RCW 71.24.025.

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

37 ~~((31))~~ (30) "Mental health service agency" means a public or
38 private agency that provides services to persons with mental
39 disorders as defined under RCW 71.05.020 or 71.34.020 and receives
40 funding from public sources. This includes evaluation and treatment

1 facilities as defined in RCW 71.34.020, community mental health
2 service delivery systems, or community behavioral health programs, as
3 defined in RCW 71.24.025, and facilities conducting competency
4 evaluations and restoration under chapter 10.77 RCW.

5 ~~((32))~~ (31) "Minor" has the same meaning as in RCW 71.34.020.

6 ~~((33))~~ (32) "Parent" has the same meaning as in RCW 71.34.020.

7 ~~((34))~~ (33) "Patient" means an individual who receives or has
8 received health care. The term includes a deceased individual who has
9 received health care.

10 ~~((35))~~ (34) "Payment" means:

11 (a) The activities undertaken by:

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

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

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

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

24 (ii) Risk adjusting amounts due based on enrollee health status
25 and demographic characteristics;

26 (iii) Billing, claims management, collection activities,
27 obtaining payment under a contract for reinsurance, including stop-
28 loss insurance and excess of loss insurance, and related health care
29 data processing;

30 (iv) Review of health care services with respect to medical
31 necessity, coverage under a health plan, appropriateness of care, or
32 justification of charges;

33 (v) Utilization review activities, including precertification and
34 preauthorization of services, and concurrent and retrospective review
35 of services; and

36 (vi) Disclosure to consumer reporting agencies of any of the
37 following health care information relating to collection of premiums
38 or reimbursement:

39 (A) Name and address;

40 (B) Date of birth;

- 1 (C) Social security number;
- 2 (D) Payment history;
- 3 (E) Account number; and
- 4 (F) Name and address of the health care provider, health care
- 5 facility, and/or third-party payor.

6 ~~((36))~~ (35) "Person" means an individual, corporation, business
7 trust, estate, trust, partnership, association, joint venture,
8 government, governmental subdivision or agency, or any other legal or
9 commercial entity.

10 ~~((37))~~ (36) "Professional person" has the same meaning as in
11 RCW 71.05.020.

12 ~~((38))~~ (37) "Psychiatric advanced registered nurse
13 practitioner" has the same meaning as in RCW 71.05.020.

14 ~~((39))~~ (38) "Psychotherapy notes" means notes recorded, in any
15 medium, by a mental health professional documenting or analyzing the
16 contents of conversations during a private counseling session or
17 group, joint, or family counseling session, and that are separated
18 from the rest of the individual's medical record. The term excludes
19 ~~((mediation))~~ medication prescription and monitoring, counseling
20 session start and stop times, the modalities and frequencies of
21 treatment furnished, results of clinical tests, and any summary of
22 the following items: Diagnosis, functional status, the treatment
23 plan, symptoms, prognosis, and progress to date.

24 ~~((40))~~ "Reasonable fee" means the charges for duplicating or
25 searching the record, but shall not exceed 65 cents per page for the
26 first 30 pages and 50 cents per page for all other pages. In
27 addition, a clerical fee for searching and handling may be charged
28 not to exceed \$15. These amounts shall be adjusted biennially in
29 accordance with changes in the consumer price index, all consumers,
30 for Seattle-Tacoma metropolitan statistical area as determined by the
31 secretary of health. However, where editing of records by a health
32 care provider is required by statute and is done by the provider
33 personally, the fee may be the usual and customary charge for a basic
34 office visit.

35 ~~((41))~~ (39) "Release" has the same meaning as in RCW 71.05.020.

36 ~~((42))~~ (40) "Resource management services" has the same meaning
37 as in RCW 71.05.020.

38 ~~((43))~~ (41) "Serious violent offense" has the same meaning as
39 in RCW 9.94A.030.

1 ~~((44))~~ (42) "Sexually transmitted infection" or "sexually
2 transmitted disease" has the same meaning as "sexually transmitted
3 disease" in RCW 70.24.017.

4 ~~((45))~~ (43) "Test for a sexually transmitted disease" has the
5 same meaning as in RCW 70.24.017.

6 ~~((46))~~ (44) "Third-party payor" means an insurer regulated
7 under Title 48 RCW authorized to transact business in this state or
8 other jurisdiction, including a health care service contractor, and
9 health maintenance organization; or an employee welfare benefit plan,
10 excluding fitness or wellness plans; or a state or federal health
11 benefit program.

12 ~~((47))~~ (45) "Treatment" means the provision, coordination, or
13 management of health care and related services by one or more health
14 care providers or health care facilities, including the coordination
15 or management of health care by a health care provider or health care
16 facility with a third party; consultation between health care
17 providers or health care facilities relating to a patient; or the
18 referral of a patient for health care from one health care provider
19 or health care facility to another.

20 ~~((48))~~ (46) "Tribal public health authority" means a tribe that
21 is responsible for public health matters as a part of its official
22 mandate.

23 ~~((49))~~ (47) "Tribal public health officer" means the individual
24 appointed as the health officer for the tribe.

25 ~~((50))~~ (48) "Tribe" has the same meaning as in RCW 71.24.025.

26 **Sec. 3.** RCW 70.02.030 and 2024 c 150 s 2 are each amended to
27 read as follows:

28 (1) A patient may authorize a health care provider or health care
29 facility to disclose the patient's health care information. A health
30 care provider or health care facility shall honor an authorization
31 and, if requested, ~~((provide a copy of))~~ assist the designated
32 recipient with obtaining the recorded health care information unless
33 the health care provider or health care facility denies the patient
34 access to health care information under RCW 70.02.090 or an exemption
35 required under federal law.

36 ~~((a) Except as provided in (b) of this subsection and RCW~~
37 ~~70.02.370, a health care provider or health care facility may charge~~
38 ~~a reasonable fee for providing the health care information and is not~~
39 ~~required to honor an authorization until the fee is paid.~~

1 ~~(b) Upon request of a patient or a patient's personal~~
2 ~~representative, a health care facility or health care provider shall~~
3 ~~provide the patient or representative with one copy of the patient's~~
4 ~~health care information free of charge if the patient is appealing~~
5 ~~the denial of federal supplemental security income or social security~~
6 ~~disability benefits. The patient or representative may complete a~~
7 ~~disclosure authorization specifying the health care information~~
8 ~~requested and provide it to the health care facility or health care~~
9 ~~provider. The health care facility or health care provider may~~
10 ~~provide the health care information in either paper or electronic~~
11 ~~format. A health care facility or health care provider is not~~
12 ~~required to provide a patient or a patient's personal representative~~
13 ~~with a free copy of health care information that has previously been~~
14 ~~provided free of charge pursuant to a request within the preceding~~
15 ~~two years.~~

16 ~~(3))~~ To be valid, a disclosure authorization to a health care
17 provider or health care facility shall:

18 (a) Be in writing, dated, and signed by the patient, the
19 patient's personal representative, or any person or entity designated
20 by the patient to receive the information;

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

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

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

26 (e) Identify the patient; and

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

29 ~~((4))~~ (3) Unless disclosure without authorization is otherwise
30 permitted under RCW 70.02.050 or the federal health insurance
31 portability and accountability act of 1996 and its implementing
32 regulations, an authorization may permit the disclosure of health
33 care information to a class of persons that includes:

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

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

1 ~~((5))~~ (4) Except as provided by this chapter, the signing of an
2 authorization by a patient is not a waiver of any rights a patient
3 has under other statutes, the rules of evidence, or common law.

4 ~~((6))~~ (5) When an authorization permits the disclosure of
5 health care information to a financial institution or an employer of
6 the patient for purposes other than payment, the authorization as it
7 pertains to those disclosures shall expire one year after the signing
8 of the authorization, unless the authorization is renewed by the
9 patient.

10 ~~((7))~~ (6) A health care provider or health care facility shall
11 retain the original or a copy of each authorization or revocation in
12 conjunction with any health care information from which disclosures
13 are made.

14 ~~((8))~~ (7) Where the patient is under the supervision of the
15 department of corrections, an authorization signed pursuant to this
16 section for health care information related to mental health or drug
17 or alcohol treatment expires at the end of the term of supervision,
18 unless the patient is part of a treatment program that requires the
19 continued exchange of information until the end of the period of
20 treatment.

21 **Sec. 4.** RCW 70.02.080 and 2018 c 87 s 3 are each amended to read
22 as follows:

23 (1) Upon receipt of a written request from a patient to ~~((examine~~
24 ~~or copy))~~ obtain all or part of the patient's recorded health care
25 information, a health care provider, as promptly as required under
26 the circumstances, but no later than ~~((fifteen))~~ 15 working days
27 after receiving the request shall:

28 (a) Make the information available for examination during regular
29 business hours and provide a copy, if requested, to the patient, the
30 patient's personal representative, or any person or entity designated
31 by the patient to receive the information;

32 (b) Inform the patient if the information does not exist or
33 cannot be found;

34 (c) If the health care provider does not maintain a record of the
35 information, inform the patient and provide the name and address, if
36 known, of the health care provider who maintains the record;

37 (d) If the information is in use or unusual circumstances have
38 delayed handling the request, inform the patient and specify in
39 writing the reasons for the delay and the earliest date, not later

1 than (~~twenty-one~~) 21 working days after receiving the request, when
2 the information will be available for examination or copying or when
3 the request will be otherwise disposed of; or

4 (e) Deny the request, in whole or in part, under RCW 70.02.090
5 and inform the patient.

6 (2) Upon request, the health care provider shall provide an
7 explanation of any code or abbreviation used in the health care
8 information. If a record of the particular health care information
9 requested is not maintained by the health care provider in the
10 requested form, the health care provider is not required to create a
11 new record or reformulate an existing record to make the health care
12 information available in the requested form. Except as provided in
13 (~~RCW 70.02.030~~) section 1 of this act, the health care provider may
14 charge a reasonable fee for (~~providing~~) assisting the designated
15 recipient to obtain the health care information and is not required
16 to (~~permit examination or copying~~) provide the health care
17 information until the fee is paid.

18 **Sec. 5.** RCW 70.02.090 and 2005 c 274 s 331 are each amended to
19 read as follows:

20 (1) Subject to any conflicting requirement in the public records
21 act, chapter 42.56 RCW, a health care provider may deny access to
22 health care information by a patient if the health care provider
23 reasonably concludes that:

24 (a) Knowledge of the health care information would be injurious
25 to the health of the patient;

26 (b) Knowledge of the health care information could reasonably be
27 expected to lead to the patient's identification of an individual who
28 provided the information in confidence and under circumstances in
29 which confidentiality was appropriate;

30 (c) Knowledge of the health care information could reasonably be
31 expected to cause danger to the life or safety of any individual;

32 (d) The health care information was compiled and is used solely
33 for litigation, quality assurance, peer review, or administrative
34 purposes; or

35 (e) Access to the health care information is otherwise prohibited
36 by state or federal law.

37 (2) If a health care provider denies a request for (~~examination~~
38 ~~and copying~~) the patient to obtain health care information under
39 this section, the provider, to the extent possible, shall segregate

1 health care information for which access has been denied under
2 subsection (1) of this section from information for which access
3 cannot be denied and permit the patient to (~~examine or copy~~) obtain
4 the disclosable information.

5 (3) If a health care provider denies a patient's request for
6 (~~examination and copying~~) obtaining health care information, in
7 whole or in part, under subsection (1)(a) or (c) of this section, the
8 provider shall permit (~~examination and copying of the record by~~)
9 another health care provider(~~r~~) to obtain the health care
10 information if the other health care provider has been selected by
11 the patient(~~r who~~) and is licensed, certified, registered, or
12 otherwise authorized under the laws of this state to treat the
13 patient for the same condition as the health care provider denying
14 the request. The health care provider denying the request shall
15 inform the patient of the patient's right to select another health
16 care provider under this subsection. The patient shall be responsible
17 for arranging for compensation of the other health care provider so
18 selected.

19 **Sec. 6.** RCW 70.02.170 and 1991 c 335 s 801 are each amended to
20 read as follows:

21 (1) A person who has complied with this chapter may maintain an
22 action for the relief provided in this section against a health care
23 provider or facility who has not complied with this chapter.

24 (2) The court may order the health care provider or other person
25 to comply with this chapter. Such relief may include actual damages,
26 but shall not include consequential or incidental damages. The court
27 shall award reasonable attorneys' fees and all other expenses
28 reasonably incurred to the prevailing (~~party~~) patient.

29 (3) Any action under this chapter is barred unless the action is
30 commenced within two years after the cause of action is discovered.

31 (4) A violation of this chapter shall not be deemed a violation
32 of the consumer protection act, chapter 19.86 RCW.

33 (5) For the purposes of this section, "prevailing patient"
34 includes:

35 (a) The patient;

36 (b) The patient's legal or authorized representative, including a
37 person authorized to consent to health care for the patient under RCW
38 70.02.130;

39 (c) The patient's power of attorney;

1 (d) The patient's guardian; and

2 (e) The patient's estate.

3 **Sec. 7.** RCW 70.02.220 and 2021 c 270 s 5 are each amended to
4 read as follows:

5 (1) No person may disclose or be compelled to disclose the
6 identity of any person who has investigated, considered, or requested
7 a test or treatment for a sexually transmitted disease, except as
8 authorized by this section, RCW 70.02.210, or chapter 70.24 RCW.

9 (2) No person may disclose or be compelled to disclose
10 information and records related to sexually transmitted diseases,
11 except as authorized by this section, RCW 70.02.210, 70.02.205, or
12 chapter 70.24 RCW. A person may disclose information related to
13 sexually transmitted diseases about a patient without the patient's
14 authorization, to the extent a recipient needs to know the
15 information, if the disclosure is to:

16 (a) The subject of the test or the subject's (~~legal~~)
17 representative for health care decisions in accordance with RCW
18 7.70.065, with the exception of such a representative of a minor
19 (~~fourteen~~) 14 years of age or over and otherwise capable of making
20 health care decisions;

21 (b) The state health officer as defined in RCW 70.24.017, a local
22 public health officer, or the centers for disease control of the
23 United States public health service in accordance with reporting
24 requirements for a diagnosed case of a sexually transmitted disease;

25 (c) A health facility or health care provider that procures,
26 processes, distributes, or uses: (i) A human body part, tissue, or
27 blood from a deceased person with respect to medical information
28 regarding that person; (ii) semen, including that was provided prior
29 to March 23, 1988, for the purpose of artificial insemination; or
30 (iii) blood specimens;

31 (d) Any state or local public health officer conducting an
32 investigation pursuant to RCW 70.24.024, so long as the record was
33 obtained by means of court-ordered HIV testing pursuant to RCW
34 70.24.340 or 70.24.024;

35 (e) A person allowed access to the record by a court order
36 granted after application showing good cause therefor. In assessing
37 good cause, the court shall weigh the public interest and the need
38 for disclosure against the injury to the patient, to the physician-
39 patient relationship, and to the treatment services. Upon the

1 granting of the order, the court, in determining the extent to which
2 any disclosure of all or any part of the record of any such test is
3 necessary, shall impose appropriate safeguards against unauthorized
4 disclosure. An order authorizing disclosure must: (i) Limit
5 disclosure to those parts of the patient's record deemed essential to
6 fulfill the objective for which the order was granted; (ii) limit
7 disclosure to those persons whose need for information is the basis
8 for the order; and (iii) include any other appropriate measures to
9 keep disclosure to a minimum for the protection of the patient, the
10 physician-patient relationship, and the treatment services;

11 (f) Persons who, because of their behavioral interaction with the
12 infected individual, have been placed at risk for acquisition of a
13 sexually transmitted disease, as provided in RCW 70.24.022, if the
14 health officer or authorized representative believes that the exposed
15 person was unaware that a risk of disease exposure existed and that
16 the disclosure of the identity of the infected person is necessary;

17 (g) A law enforcement officer, firefighter, health care provider,
18 health care facility staff person, department of correction's staff
19 person, jail staff person, or other persons as defined by the board
20 of health in rule pursuant to RCW 70.24.340, who has requested a test
21 of a person whose bodily fluids he or she has been substantially
22 exposed to, pursuant to RCW 70.24.340, if a state or local public
23 health officer performs the test;

24 (h) Claims management personnel employed by or associated with an
25 insurer, health care service contractor, health maintenance
26 organization, self-funded health plan, state administered health care
27 claims payer, or any other payer of health care claims where such
28 disclosure is to be used solely for the prompt and accurate
29 evaluation and payment of medical or related claims. Information
30 released under this subsection must be confidential and may not be
31 released or available to persons who are not involved in handling or
32 determining medical claims payment; and

33 (i) A department of children, youth, and families worker, a
34 child-placing agency worker, or a guardian ad litem who is
35 responsible for making or reviewing placement or case-planning
36 decisions or recommendations to the court regarding a child, who is
37 less than (~~fourteen~~) 14 years of age, has a sexually transmitted
38 disease, and is in the custody of the department of children, youth,
39 and families or a licensed child-placing agency. This information may
40 also be received by a person responsible for providing residential

1 care for such a child when the department of social and health
2 services, the department of children, youth, and families, or a
3 licensed child-placing agency determines that it is necessary for the
4 provision of child care services.

5 (3) No person to whom the results of a test for a sexually
6 transmitted disease have been disclosed pursuant to subsection (2) of
7 this section may disclose the test results to another person except
8 as authorized by that subsection.

9 (4) The release of sexually transmitted disease information
10 regarding an offender or detained person, except as provided in
11 subsection (2)(d) of this section, is governed as follows:

12 (a) The sexually transmitted disease status of a department of
13 corrections offender who has had a mandatory test conducted pursuant
14 to RCW 70.24.340(~~((1))~~), 70.24.360, or 70.24.370 must be made
15 available by department of corrections health care providers and
16 local public health officers to the department of corrections health
17 care administrator or infection control coordinator of the facility
18 in which the offender is housed. The information made available to
19 the health care administrator or the infection control coordinator
20 under this subsection (4)(a) may be used only for disease prevention
21 or control and for protection of the safety and security of the
22 staff, offenders, and the public. The information may be submitted to
23 transporting officers and receiving facilities, including facilities
24 that are not under the department of corrections' jurisdiction
25 according to the provisions of (d) and (e) of this subsection.

26 (b) The sexually transmitted disease status of a person detained
27 in a jail who has had a mandatory test conducted pursuant to RCW
28 70.24.340(~~((1))~~), 70.24.360, or 70.24.370 must be made available by
29 the local public health officer to a jail health care administrator
30 or infection control coordinator. The information made available to a
31 health care administrator under this subsection (4)(b) may be used
32 only for disease prevention or control and for protection of the
33 safety and security of the staff, offenders, detainees, and the
34 public. The information may be submitted to transporting officers and
35 receiving facilities according to the provisions of (d) and (e) of
36 this subsection.

37 (c) Information regarding the sexually transmitted disease status
38 of an offender or detained person is confidential and may be
39 disclosed by a correctional health care administrator or infection
40 control coordinator or local jail health care administrator or

1 infection control coordinator only as necessary for disease
2 prevention or control and for protection of the safety and security
3 of the staff, offenders, and the public. Unauthorized disclosure of
4 this information to any person may result in disciplinary action, in
5 addition to the penalties prescribed in RCW 70.24.080 or any other
6 penalties as may be prescribed by law.

7 (d) Notwithstanding the limitations on disclosure contained in
8 (a), (b), and (c) of this subsection, whenever any member of a jail
9 staff or department of corrections staff has been substantially
10 exposed to the bodily fluids of an offender or detained person, then
11 the results of any tests conducted pursuant to RCW 70.24.340(~~((1))~~),
12 70.24.360, or 70.24.370, must be immediately disclosed to the staff
13 person in accordance with the Washington Administrative Code rules
14 governing employees' occupational exposure to blood-borne pathogens.
15 Disclosure must be accompanied by appropriate counseling for the
16 staff member, including information regarding follow-up testing and
17 treatment. Disclosure must also include notice that subsequent
18 disclosure of the information in violation of this chapter or use of
19 the information to harass or discriminate against the offender or
20 detainee may result in disciplinary action, in addition to the
21 penalties prescribed in RCW 70.24.080, and imposition of other
22 penalties prescribed by law.

23 (e) The staff member must also be informed whether the offender
24 or detained person had any other communicable disease, as defined in
25 RCW 72.09.251(3), when the staff person was substantially exposed to
26 the offender's or detainee's bodily fluids.

27 (f) The test results of voluntary and anonymous HIV testing or
28 HIV-related condition(~~(, as defined in RCW 70.24.017,)~~) may not be
29 disclosed to a staff person except as provided in this section and
30 RCW 70.02.050(1)(d) and 70.24.340. A health care administrator or
31 infection control coordinator may provide the staff member with
32 information about how to obtain the offender's or detainee's test
33 results under this section and RCW 70.02.050(1)(d) and 70.24.340.

34 (5) The requirements of this section do not apply to the
35 customary methods utilized for the exchange of medical information
36 among health care providers in order to provide health care services
37 to the patient, nor do they apply within health care facilities where
38 there is a need for access to confidential medical information to
39 fulfill professional duties.

1 (6) Upon request of the victim, disclosure of test results under
2 this section to victims of sexual offenses under chapter 9A.44 RCW
3 must be made if the result is negative or positive. The county
4 prosecuting attorney shall notify the victim of the right to such
5 disclosure. The disclosure must be accompanied by appropriate
6 counseling, including information regarding follow-up testing.

7 (7) A person, including a health care facility or health care
8 provider, shall disclose the identity of any person who has
9 investigated, considered, or requested a test or treatment for a
10 sexually transmitted disease and information and records related to
11 sexually transmitted diseases to federal, state, or local public
12 health authorities, to the extent the health care provider is
13 required by law to report health care information; when needed to
14 determine compliance with state or federal certification or
15 registration rules or laws; or when needed to protect the public
16 health. Any health care information obtained under this subsection is
17 exempt from public inspection and copying pursuant to chapter 42.56
18 RCW.

19 **Sec. 8.** RCW 70.02.260 and 2024 c 290 s 6 and 2024 c 209 s 34 are
20 each reenacted and amended to read as follows:

21 (1)(a) A mental health service agency shall release to the
22 persons authorized under subsection (2) of this section, upon
23 request:

24 (i) The fact, place, and date of an involuntary commitment, the
25 fact and date of discharge or release, and the last known address of
26 a person who has been committed under chapter 71.05 or 71.34 RCW.

27 (ii) Information and records related to mental health services,
28 in the format determined under subsection (9) of this section,
29 concerning a person who:

30 (A) Is currently committed to the custody or supervision of the
31 department of corrections or the indeterminate sentence review board
32 under chapter 9.94A or 9.95 RCW;

33 (B) Has been convicted or found not guilty by reason of insanity
34 of a serious violent offense; or

35 (C) Was charged with a serious violent offense and the charges
36 were dismissed under RCW 10.77.086.

37 (b) Legal counsel for the mental health service agency, including
38 a county prosecutor or assistant attorney general who represents the
39 mental health service agency for the purpose of involuntary

1 commitment proceedings, may release this information on behalf of the
2 mental health service agency.

3 (c) Nothing in this subsection requires the disclosure of
4 attorney work product or attorney-client privileged information.

5 (2) The information subject to release under subsection (1) of
6 this section must be released to law enforcement officers, city or
7 county prosecuting attorneys, personnel of a county, city, or tribal
8 jail or tribal detention or holding facility, designated mental
9 health professionals or designated crisis responders, as appropriate,
10 public health officers, therapeutic court personnel as defined in RCW
11 71.05.020, or personnel of the department of corrections, including
12 the indeterminate sentence review board and personnel assigned to
13 perform board-related duties, when such information is requested
14 during the course of business and for the purpose of carrying out the
15 responsibilities of the requesting person's office. No mental health
16 service agency or person employed by a mental health service agency,
17 or its legal counsel, may be liable for information released to or
18 used under the provisions of this section or rules adopted under this
19 section except under RCW 71.05.680.

20 (3) A person who requests information under subsection (1)(a)(ii)
21 of this section must comply with the following restrictions:

22 (a) Information must be requested only for the purposes permitted
23 by this subsection and for the purpose of carrying out the
24 responsibilities of the requesting person's office. Appropriate
25 purposes for requesting information under this section include:

26 (i) Completing presentence investigations or risk assessment
27 reports;

28 (ii) Assessing a person's risk to the community;

29 (iii) Assessing a person's risk of harm to self or others when
30 confined in a city or county jail;

31 (iv) Planning for and provision of supervision of an offender,
32 including decisions related to sanctions for violations of conditions
33 of community supervision; (~~and~~)

34 (v) Responding to an offender's failure to report for department
35 of corrections supervision; and

36 (vi) Assessing the need for an extreme risk protection order
37 under chapter 7.105 RCW;

38 (b) Information may not be requested under this section unless
39 the requesting person has reasonable suspicion that the individual
40 who is the subject of the information:

1 (i) Has engaged in activity indicating that a crime or a
2 violation of community custody or parole has been committed or, based
3 upon his or her current or recent past behavior, is likely to be
4 committed in the near future; or

5 (ii) Is exhibiting signs of a deterioration in mental functioning
6 which may make the individual appropriate for civil commitment under
7 chapter 71.05 or 71.34 RCW, or which is associated with a recent
8 detention or order of commitment under chapter 71.05 or 71.34 RCW or
9 an order of commitment or dismissal of charges under chapter 10.77
10 RCW; and

11 (c) Any information received under this section must be held
12 confidential and subject to the limitations on disclosure outlined in
13 this chapter, except:

14 (i) The information may be shared with other persons who have the
15 right to request similar information under subsection (2) of this
16 section, solely for the purpose of coordinating activities related to
17 the individual who is the subject of the information in a manner
18 consistent with the official responsibilities of the persons
19 involved;

20 (ii) The information may be shared with a prosecuting attorney
21 who is acting in an advisory capacity for a person who receives
22 information under this section or who is carrying out other official
23 duties within the scope of this section. A prosecuting attorney under
24 this subsection is subject to the same restrictions and
25 confidentiality limitations as the person who requested the
26 information; and

27 (iii) As provided in RCW 72.09.585.

28 (4) A request for information and records related to mental
29 health services under this section does not require the consent of
30 the subject of the records. The request must be provided in writing,
31 except to the extent authorized in subsection (5) of this section. A
32 written request may include requests made by email or facsimile so
33 long as the requesting person is clearly identified. The request must
34 specify the information being requested.

35 (5) In the event of an emergency situation that poses a
36 significant risk to the public or the offender, a mental health
37 service agency, or its legal counsel, shall release information
38 related to mental health services delivered to the offender and, if
39 known, information regarding where the offender is likely to be found
40 to the department of corrections or law enforcement upon request. The

1 initial request may be written or oral. All oral requests must be
2 subsequently confirmed in writing. Information released in response
3 to an oral request is limited to a statement as to whether the
4 offender is or is not being treated by the mental health service
5 agency and the address or information about the location or
6 whereabouts of the offender.

7 (6) Disclosure under this section to state or local law
8 enforcement authorities is mandatory for the purposes of the federal
9 health insurance portability and accountability act.

10 (7) Whenever federal law or federal regulations restrict the
11 release of information contained in the treatment records of any
12 patient who receives treatment for alcoholism or drug dependency, the
13 release of the information may be restricted as necessary to comply
14 with federal law and regulations.

15 (8) This section does not modify the terms and conditions of
16 disclosure of information related to sexually transmitted diseases
17 under this chapter.

18 (9) In collaboration with interested organizations, the authority
19 shall develop a standard form for requests for information related to
20 mental health services made under this section and a standard format
21 for information provided in response to the requests. Consistent with
22 the goals of the health information privacy provisions of the federal
23 health insurance portability and accountability act, in developing
24 the standard form for responsive information, the authority shall
25 design the form in such a way that the information disclosed is
26 limited to the minimum necessary to serve the purpose for which the
27 information is requested.

28 (10) For the purposes of this section, "legal counsel" has the
29 same meaning as in RCW 71.05.020.

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