
SENATE BILL 5254

State of Washington

69th Legislature

2025 Regular Session

By Senators Orwall, Trudeau, Frame, Nobles, Valdez, and C. Wilson

Read first time 01/14/25. Referred to Committee on Health & Long-Term Care.

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 and RCW
11 70.02.370, a health care provider or health care facility may charge
12 a reasonable fee, in accordance with the department's standards
13 established in subsection (3) of this section, for providing health
14 care information to a person and is not required to honor an
15 authorization until the fee is paid.

16 (2)(a) A health care provider or health care facility may not
17 charge a fee of more than \$50 for providing a patient's health care
18 information to:

19 (i) The patient;

20 (ii) The patient's representative, including a person authorized
21 to consent to health care for the patient under RCW 70.02.130;

1 (iii) A licensed attorney who is representing the patient or the
2 patient's estate;

3 (iv) A health care provider or health care facility providing
4 health care services to the patient;

5 (v) A community-based or system-based advocate designated by the
6 patient; or

7 (vi) The patient's guardian.

8 (b) The \$50 fee limit in (a) of this subsection applies to any
9 third party acting on behalf of a health care provider or health care
10 facility, including any agent, vendor, or business associate.

11 (3) The department shall adopt rules to establish standards for a
12 reasonable fee that a health care provider or health care facility
13 may charge for providing access to or exchanging health care
14 information. The standards must recognize the prevalence of the use
15 of electronic health record searching and exchange capabilities and
16 consider federal laws related to the establishment of fees for
17 accessing and exchanging health care information. The standards must
18 be based upon the actual costs of searching and producing the
19 particular patient's records and may not be based upon a per page
20 calculation.

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

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

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

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

29 (a) Statutory, regulatory, fiscal, medical, or scientific
30 standards;

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

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

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

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

36 (5) "Custody" has the same meaning as in RCW 71.05.020.

37 (6) "Deidentified" means health information that does not
38 identify an individual and with respect to which there is no

1 reasonable basis to believe that the information can be used to
2 identify an individual.

3 (7) "Department" means the department of social and health
4 services.

5 (8) "Designated crisis responder" has the same meaning as in RCW
6 71.05.020 or 71.34.020, as applicable.

7 (9) "Detention" or "detain" has the same meaning as in RCW
8 71.05.020.

9 (10) "Directory information" means information disclosing the
10 presence, and for the purpose of identification, the name, location
11 within a health care facility, and the general health condition of a
12 particular patient who is a patient in a health care facility or who
13 is currently receiving emergency health care in a health care
14 facility.

15 (11) "Discharge" has the same meaning as in RCW 71.05.020.

16 (12) "Evaluation and treatment facility" has the same meaning as
17 in RCW 71.05.020 or 71.34.020, as applicable.

18 (13) "Federal, state, or local law enforcement authorities" means
19 an officer of any agency or authority in the United States, a state,
20 a tribe, a territory, or a political subdivision of a state, a tribe,
21 or a territory who is empowered by law to: (a) Investigate or conduct
22 an official inquiry into a potential criminal violation of law; or
23 (b) prosecute or otherwise conduct a criminal proceeding arising from
24 an alleged violation of law.

25 (14) "General health condition" means the patient's health status
26 described in terms of "critical," "poor," "fair," "good,"
27 "excellent," or terms denoting similar conditions.

28 (15) "Health care" means any care, service, or procedure provided
29 by a health care provider:

30 (a) To diagnose, treat, or maintain a patient's physical or
31 mental condition; or

32 (b) That affects the structure or any function of the human body.

33 (16) "Health care facility" means a hospital, clinic, nursing
34 home, laboratory, office, or similar place where a health care
35 provider provides health care to patients.

36 (17) "Health care information" means any information, whether
37 oral or recorded in any form or medium, that identifies or can
38 readily be associated with the identity of a patient and directly
39 relates to the patient's health care, including a patient's
40 deoxyribonucleic acid and identified sequence of chemical base pairs.

1 The term includes any required accounting of disclosures of health
2 care information.

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

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

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

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

30 (d) Conducting or arranging for medical review, legal services,
31 and auditing functions, including fraud and abuse detection and
32 compliance programs;

33 (e) Business planning and development, such as conducting cost-
34 management and planning-related analyses related to managing and
35 operating the health care facility or third-party payor, including
36 formulary development and administration, development, or improvement
37 of methods of payment or coverage policies; and

38 (f) Business management and general administrative activities of
39 the health care facility, health care provider, or third-party payor
40 including, but not limited to:

1 (i) Management activities relating to implementation of and
2 compliance with the requirements of this chapter;

3 (ii) Customer service, including the provision of data analyses
4 for policyholders, plan sponsors, or other customers, provided that
5 health care information is not disclosed to such policyholder, plan
6 sponsor, or customer;

7 (iii) Resolution of internal grievances;

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

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

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

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

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

25 (22) "Indian health care provider" has the same meaning as in RCW
26 43.71B.010(11).

27 (23) "Information and records related to mental health services"
28 means a type of health care information that relates to all
29 information and records compiled, obtained, or maintained in the
30 course of providing services by a mental health service agency or
31 mental health professional to persons who are receiving or have
32 received services for mental illness. The term includes mental health
33 information contained in a medical bill, registration records, and
34 all other records regarding the person maintained by the department,
35 by the authority, by behavioral health administrative services
36 organizations and their staff, managed care organizations contracted
37 with the authority under chapter 74.09 RCW and their staff, and by
38 treatment facilities. The term further includes documents of legal
39 proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic
40 health care information. For health care information maintained by a

1 hospital as defined in RCW 70.41.020 or a health care facility or
2 health care provider that participates with a hospital in an
3 organized health care arrangement defined under federal law,
4 "information and records related to mental health services" is
5 limited to information and records of services provided by a mental
6 health professional or information and records of services created by
7 a hospital-operated community behavioral health program as defined in
8 RCW 71.24.025. The term does not include psychotherapy notes.

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

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

20 (26) (~~"Legal counsel" has the same meaning as in RCW 71.05.020.~~
21 ~~(27)~~) "Local public health officer" has the same meaning as the
22 term "local health officer" as defined in RCW 70.24.017.

23 (~~(28)~~) (27) "Maintain," as related to health care information,
24 means to hold, possess, preserve, retain, store, or control that
25 information.

26 (~~(29)~~) (28) "Managed care organization" has the same meaning as
27 provided in RCW 71.24.025.

28 (~~(30)~~) (29) "Mental health professional" means a psychiatrist,
29 psychologist, psychiatric advanced registered nurse practitioner,
30 psychiatric nurse, or social worker, and such other mental health
31 professionals as may be defined by rules adopted by the secretary of
32 health under chapter 71.05 RCW, whether that person works in a
33 private or public setting.

34 (~~(31)~~) (30) "Mental health service agency" means a public or
35 private agency that provides services to persons with mental
36 disorders as defined under RCW 71.05.020 or 71.34.020 and receives
37 funding from public sources. This includes evaluation and treatment
38 facilities as defined in RCW 71.34.020, community mental health
39 service delivery systems, or community behavioral health programs, as

1 defined in RCW 71.24.025, and facilities conducting competency
2 evaluations and restoration under chapter 10.77 RCW.

3 ~~((32))~~ (31) "Minor" has the same meaning as in RCW 71.34.020.

4 ~~((33))~~ (32) "Parent" has the same meaning as in RCW 71.34.020.

5 ~~((34))~~ (33) "Patient" means an individual who receives or has
6 received health care. The term includes a deceased individual who has
7 received health care.

8 ~~((35))~~ (34) "Payment" means:

9 (a) The activities undertaken by:

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

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

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

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

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

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

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

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

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

37 (A) Name and address;

38 (B) Date of birth;

39 (C) Social security number;

40 (D) Payment history;

1 (E) Account number; and
2 (F) Name and address of the health care provider, health care
3 facility, and/or third-party payor.
4 ~~((36))~~ (35) "Person" means an individual, corporation, business
5 trust, estate, trust, partnership, association, joint venture,
6 government, governmental subdivision or agency, or any other legal or
7 commercial entity.
8 ~~((37))~~ (36) "Professional person" has the same meaning as in
9 RCW 71.05.020.
10 ~~((38))~~ (37) "Psychiatric advanced registered nurse
11 practitioner" has the same meaning as in RCW 71.05.020.
12 ~~((39))~~ (38) "Psychotherapy notes" means notes recorded, in any
13 medium, by a mental health professional documenting or analyzing the
14 contents of conversations during a private counseling session or
15 group, joint, or family counseling session, and that are separated
16 from the rest of the individual's medical record. The term excludes
17 ~~((mediation))~~ medication prescription and monitoring, counseling
18 session start and stop times, the modalities and frequencies of
19 treatment furnished, results of clinical tests, and any summary of
20 the following items: Diagnosis, functional status, the treatment
21 plan, symptoms, prognosis, and progress to date.
22 ~~((40) "Reasonable fee" means the charges for duplicating or~~
23 ~~searching the record, but shall not exceed 65 cents per page for the~~
24 ~~first 30 pages and 50 cents per page for all other pages. In~~
25 ~~addition, a clerical fee for searching and handling may be charged~~
26 ~~not to exceed \$15. These amounts shall be adjusted biennially in~~
27 ~~accordance with changes in the consumer price index, all consumers,~~
28 ~~for Seattle-Tacoma metropolitan statistical area as determined by the~~
29 ~~secretary of health. However, where editing of records by a health~~
30 ~~care provider is required by statute and is done by the provider~~
31 ~~personally, the fee may be the usual and customary charge for a basic~~
32 ~~office visit.~~
33 ~~(41))~~ (39) "Release" has the same meaning as in RCW 71.05.020.
34 ~~((42))~~ (40) "Resource management services" has the same meaning
35 as in RCW 71.05.020.
36 ~~((43))~~ (41) "Serious violent offense" has the same meaning as
37 in RCW 9.94A.030.
38 ~~((44))~~ (42) "Sexually transmitted infection" or "sexually
39 transmitted disease" has the same meaning as "sexually transmitted
40 disease" in RCW 70.24.017.

1 ~~((45))~~ (43) "Test for a sexually transmitted disease" has the
2 same meaning as in RCW 70.24.017.

3 ~~((46))~~ (44) "Third-party payor" means an insurer regulated
4 under Title 48 RCW authorized to transact business in this state or
5 other jurisdiction, including a health care service contractor, and
6 health maintenance organization; or an employee welfare benefit plan,
7 excluding fitness or wellness plans; or a state or federal health
8 benefit program.

9 ~~((47))~~ (45) "Treatment" means the provision, coordination, or
10 management of health care and related services by one or more health
11 care providers or health care facilities, including the coordination
12 or management of health care by a health care provider or health care
13 facility with a third party; consultation between health care
14 providers or health care facilities relating to a patient; or the
15 referral of a patient for health care from one health care provider
16 or health care facility to another.

17 ~~((48))~~ (46) "Tribal public health authority" means a tribe that
18 is responsible for public health matters as a part of its official
19 mandate.

20 ~~((49))~~ (47) "Tribal public health officer" means the individual
21 appointed as the health officer for the tribe.

22 ~~((50))~~ (48) "Tribe" has the same meaning as in RCW 71.24.025.

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

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

33 (2) ~~((a) Except as provided in (b) of this subsection and RCW~~
34 ~~70.02.370, a health care provider or health care facility may charge~~
35 ~~a reasonable fee for providing the health care information and is not~~
36 ~~required to honor an authorization until the fee is paid.~~

37 ~~(b) Upon request of a patient or a patient's personal~~
38 ~~representative, a health care facility or health care provider shall~~
39 ~~provide the patient or representative with one copy of the patient's~~

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

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

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

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

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

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

23 (e) Identify the patient; and

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

26 ~~((4))~~ (3) Unless disclosure without authorization is otherwise
27 permitted under RCW 70.02.050 or the federal health insurance
28 portability and accountability act of 1996 and its implementing
29 regulations, an authorization may permit the disclosure of health
30 care information to a class of persons that includes:

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

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

36 ~~((5))~~ (4) Except as provided by this chapter, the signing of an
37 authorization by a patient is not a waiver of any rights a patient
38 has under other statutes, the rules of evidence, or common law.

39 ~~((6))~~ (5) When an authorization permits the disclosure of
40 health care information to a financial institution or an employer of

1 the patient for purposes other than payment, the authorization as it
2 pertains to those disclosures shall expire one year after the signing
3 of the authorization, unless the authorization is renewed by the
4 patient.

5 ~~((7))~~ (6) A health care provider or health care facility shall
6 retain the original or a copy of each authorization or revocation in
7 conjunction with any health care information from which disclosures
8 are made.

9 ~~((8))~~ (7) Where the patient is under the supervision of the
10 department of corrections, an authorization signed pursuant to this
11 section for health care information related to mental health or drug
12 or alcohol treatment expires at the end of the term of supervision,
13 unless the patient is part of a treatment program that requires the
14 continued exchange of information until the end of the period of
15 treatment.

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

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

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

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

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

32 (d) If the information is in use or unusual circumstances have
33 delayed handling the request, inform the patient and specify in
34 writing the reasons for the delay and the earliest date, not later
35 than (~~twenty-one~~) 21 working days after receiving the request, when
36 the information will be available for examination or copying or when
37 the request will be otherwise disposed of; or

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

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

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

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

19 (a) Knowledge of the health care information would be injurious
20 to the health of the patient;

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

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

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

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

32 (2) If a health care provider denies a request for (~~examination~~
33 ~~and copying~~) the patient to obtain health care information under
34 this section, the provider, to the extent possible, shall segregate
35 health care information for which access has been denied under
36 subsection (1) of this section from information for which access
37 cannot be denied and permit the patient to (~~examine or copy~~) obtain
38 the disclosable information.

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

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

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

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

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

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

29 (5) For the purposes of this section, "prevailing patient"
30 includes:

31 (a) The patient;

32 (b) The patient's legal or authorized representative, including a
33 person authorized to consent to health care for the patient under RCW
34 70.02.130;

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

36 (d) The patient's guardian; and

37 (e) The patient's estate.

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

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

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

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

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

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

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

33 (e) A person allowed access to the record by a court order
34 granted after application showing good cause therefor. In assessing
35 good cause, the court shall weigh the public interest and the need
36 for disclosure against the injury to the patient, to the physician-
37 patient relationship, and to the treatment services. Upon the
38 granting of the order, the court, in determining the extent to which
39 any disclosure of all or any part of the record of any such test is
40 necessary, shall impose appropriate safeguards against unauthorized

1 disclosure. An order authorizing disclosure must: (i) Limit
2 disclosure to those parts of the patient's record deemed essential to
3 fulfill the objective for which the order was granted; (ii) limit
4 disclosure to those persons whose need for information is the basis
5 for the order; and (iii) include any other appropriate measures to
6 keep disclosure to a minimum for the protection of the patient, the
7 physician-patient relationship, and the treatment services;

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

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

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

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

1 licensed child-placing agency determines that it is necessary for the
2 provision of child care services.

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

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

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

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

35 (c) Information regarding the sexually transmitted disease status
36 of an offender or detained person is confidential and may be
37 disclosed by a correctional health care administrator or infection
38 control coordinator or local jail health care administrator or
39 infection control coordinator only as necessary for disease
40 prevention or control and for protection of the safety and security

1 of the staff, offenders, and the public. Unauthorized disclosure of
2 this information to any person may result in disciplinary action, in
3 addition to the penalties prescribed in RCW 70.24.080 or any other
4 penalties as may be prescribed by law.

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

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

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

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

38 (6) Upon request of the victim, disclosure of test results under
39 this section to victims of sexual offenses under chapter 9A.44 RCW
40 must be made if the result is negative or positive. The county

1 prosecuting attorney shall notify the victim of the right to such
2 disclosure. The disclosure must be accompanied by appropriate
3 counseling, including information regarding follow-up testing.

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

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

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

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

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

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

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

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

34 (b) Legal counsel for the mental health service agency, including
35 a county prosecutor or assistant attorney general who represents the
36 mental health service agency for the purpose of involuntary
37 commitment proceedings, may release this information on behalf of the
38 mental health service agency.

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

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

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

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

24 (i) Completing presentence investigations or risk assessment
25 reports;

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

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

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

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

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

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

39 (i) Has engaged in activity indicating that a crime or a
40 violation of community custody or parole has been committed or, based

1 upon his or her current or recent past behavior, is likely to be
2 committed in the near future; or

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

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

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

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

25 (iii) As provided in RCW 72.09.585.

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

33 (5) In the event of an emergency situation that poses a
34 significant risk to the public or the offender, a mental health
35 service agency, or its legal counsel, shall release information
36 related to mental health services delivered to the offender and, if
37 known, information regarding where the offender is likely to be found
38 to the department of corrections or law enforcement upon request. The
39 initial request may be written or oral. All oral requests must be
40 subsequently confirmed in writing. Information released in response

1 to an oral request is limited to a statement as to whether the
2 offender is or is not being treated by the mental health service
3 agency and the address or information about the location or
4 whereabouts of the offender.

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

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

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

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

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

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