RCW 7.70.060 Consent form—Contents—Prima facie evidence—Shared decision making—Patient decision aid—Failure to use. (1) If a patient who has capacity to make health a care [a health care] decision, or his or her representative if he or she does not have the capacity to make a health care decision, signs a consent form which sets forth the following, the signed consent form shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by a preponderance of the evidence:

(a) A description, in language the patient could reasonably be expected to understand, of:

(i) The nature and character of the proposed treatment;

(ii) The anticipated results of the proposed treatment;

(iii) The recognized possible alternative forms of treatment; and

(iv) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment and in the recognized possible alternative forms of treatment, including nontreatment;

(b) Or as an alternative, a statement that the patient elects not to be informed of the elements set forth in (a) of this subsection.

(2) If a patient who has capacity to make a health care decision, or his or her representative if he or she does not have the capacity to make a health care decision, signs an acknowledgment of shared decision making as described in this section, such acknowledgment shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by clear and convincing evidence. An acknowledgment of shared decision making shall include:

(a) A statement that the patient, or his or her representative, and the health care provider have engaged in shared decision making as an alternative means of meeting the informed consent requirements set forth by laws, accreditation standards, and other mandates;

(b) A brief description of the services that the patient and provider jointly have agreed will be furnished;

(c) A brief description of the patient decision aid or aids that have been used by the patient and provider to address the needs for (i) high quality, up-to-date information about the condition, including risk and benefits of available options and, if appropriate, a discussion of the limits of scientific knowledge about outcomes; (ii) values clarification to help patients sort out their values and preferences; and (iii) guidance or coaching in deliberation, designed to improve the patient's involvement in the decision process;

(d) A statement that the patient or his or her representative understands: The risk or seriousness of the disease or condition to be prevented or treated; the available treatment alternatives, including nontreatment; and the risks, benefits, and uncertainties of the treatment alternatives, including nontreatment; and

(e) A statement certifying that the patient or his or her representative has had the opportunity to ask the provider questions, and to have any questions answered to the patient's satisfaction, and indicating the patient's intent to receive the identified services.

(3) As used in this section, "shared decision making" means a process in which the physician or other health care practitioner discusses with the patient or his or her representative the information specified in subsection (2) of this section with the use of a patient decision aid and the patient shares with the provider

such relevant personal information as might make one treatment or side effect more or less tolerable than others.

(4)(a) As used in this section, "patient decision aid" means a written, audiovisual, or online tool that provides a balanced presentation of the condition and treatment options, benefits, and harms, including, if appropriate, a discussion of the limits of scientific knowledge about outcomes, for any medical condition or procedure, including abortion as defined in RCW 9.02.170 and:

(i)(A) That is certified by one or more national certifying organizations recognized by the medical director of the health care authority; or

(B) That has been evaluated based on the international patient decision aid standards by an organization located in the United States or Canada and has a current overall score satisfactory to the medical director of the health care authority; or

(ii) That, if a current evaluation is not available from an organization located in the United States or Canada, the medical director of the health care authority has independently assessed and certified based on the international patient decision aid standards.

(b) The health care authority may charge a fee to the certification applicant to defray the costs of the assessment and certification under this subsection.

(5) Failure to use a form or to engage in shared decision making, with or without the use of a patient decision aid, shall not be admissible as evidence of failure to obtain informed consent. There shall be no liability, civil or otherwise, resulting from a health care provider choosing either the signed consent form set forth in subsection (1)(a) of this section or the signed acknowledgment of shared decision making as set forth in subsection (2) of this section. [2021 c 270 s 3; 2012 c 101 s 1; 2007 c 259 s 3; 1975-'76 2nd ex.s. c 56 s 11.]

Effective date—2021 c 270: See note following RCW 7.70.065.

Subheadings not law—2007 c 259: "Subheadings used in this act are not any part of the law." [2007 c 259 s 71.]

Severability—1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

Minors
access to personal records: RCW 42.48.020.
liability of provider: RCW 26.09.310.
mental health treatment: Chapter 71.34 RCW.
sexually transmitted diseases: RCW 70.24.110.

Records, rights: RCW 70.02.130.