

1 their health care and correct inaccurate or incomplete information
2 about themselves, although health care providers need not disseminate
3 records on behalf of the patient.

4 (3) In order to retain the full trust and confidence of patients,
5 health care providers have an interest in assuring that health care
6 information is not improperly disclosed and in having clear and certain
7 rules for the disclosure of health care information.

8 (4) Persons other than health care providers obtain, use, and
9 disclose health record information in many different contexts and for
10 many different purposes. It is the public policy of this state that a
11 patient's interest in the proper use and disclosure of the patient's
12 health care information survives even when the information is held by
13 persons other than health care providers.

14 (5) The movement of patients and their health care information
15 across state lines, access to and exchange of health care information
16 from automated data banks, and the emergence of multistate health care
17 providers creates a compelling need for uniform law, rules, and
18 procedures governing the use and disclosure of health care information.

19 NEW SECTION. **Sec. 102.** DEFINITIONS. As used in this chapter,
20 unless the context otherwise requires:

21 (1) "Audit" means an assessment, evaluation, determination, or
22 investigation of a health care provider by a person not employed by or
23 affiliated with the provider to determine compliance with:

24 (a) Statutory, regulatory, fiscal, medical, or scientific
25 standards;

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

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

1 (2) "Directory information" means information disclosing the
2 presence and the general health condition of a particular patient who
3 is a patient in a health care facility or who is currently receiving
4 emergency health care in a health care facility.

5 (3) "General health condition" means the patient's health status
6 described in terms of "critical," "poor," "fair," "good," "excellent,"
7 or terms denoting similar conditions.

8 (4) "Health care" means any care, service, or procedure provided by
9 a health care provider:

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

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

13 (5) "Health care facility" means a hospital, clinic, nursing home,
14 laboratory, office, or similar place where a health care provider
15 provides health care to patients.

16 (6) "Health care information" means any information, whether oral
17 or recorded in any form or medium, that identifies or can readily be
18 associated with the identity of a patient and directly relates to the
19 patient's health care. The term includes any record of disclosures of
20 health care information.

21 (7) "Health care provider" means a person who is licensed,
22 certified, registered, or otherwise authorized by the law of this state
23 to provide health care in the ordinary course of business or practice
24 of a profession. The term does not include a person who provides
25 health care solely through the sale or dispensing of drugs or medical
26 devices.

27 (8) "Institutional review board" means any board, committee, or
28 other group formally designated by an institution, or authorized under
29 federal or state law, to review, approve the initiation of, or conduct

1 periodic review of research programs to assure the protection of the
2 rights and welfare of human research subjects.

3 (9) "Maintain," as related to health care information, means to
4 hold, possess, preserve, retain, store, or control that information.

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

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

12 (12) "Reasonable fee" means the charges for duplicating or
13 searching the record specified in RCW 36.18.020 (8) or (16),
14 respectively. However, where editing of records by a health care
15 provider is required by statute and is done by the provider personally,
16 the fee may be the usual and customary charge for a basic office visit.

17 ARTICLE II

18 DISCLOSURE OF HEALTH CARE INFORMATION

19 NEW SECTION. **Sec. 201.** DISCLOSURE BY HEALTH CARE PROVIDER.

20 Except as authorized in section 204 of this act, a health care
21 provider, an individual who assists a health care provider in the
22 delivery of health care, or an agent and employee of a health care
23 provider may not disclose health care information about a patient to
24 any other person with the patient's written authorization. A
25 disclosure made under a patient's written authorization must conform to
26 the authorization.

1 Health care providers or facilities shall chart all disclosures,
2 except to third-party health care payors, of health care information,
3 such chartings to become part of the health care information.

4 NEW SECTION. **Sec. 202.** PATIENT AUTHORIZATION TO HEALTH CARE
5 PROVIDER FOR DISCLOSURE. (1) A patient may authorize a health care
6 provider to disclose the patient's health care information. A health
7 care provider shall honor an authorization and, if requested, provide
8 a copy of the recorded health care information unless the health care
9 provider denies the patient access to health care information under
10 section 302 of this act.

11 (2) A health care provider may charge a reasonable fee, not to
12 exceed the health care provider's actual cost for providing the health
13 care information, and is not required to honor an authorization until
14 the fee is paid.

15 (3) To be valid, a disclosure authorization to a health care
16 provider must:

17 (a) Be in writing, dated, and signed by the patient;

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

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

21 (d) Identify the provider who is to make the disclosure; and

22 (e) Identify the patient.

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

26 (5) A health care provider shall retain each authorization or
27 revocation in conjunction with any health care information from which
28 disclosures are made. This requirement shall not apply to disclosures
29 to third-party health care payors.

1 (6) Except for authorizations to provide information to third-party
2 health care payors, an authorization may not permit the release of
3 health care information relating to future health care that the patient
4 receives more than ninety days after the authorization was signed.
5 Patients shall be advised of the period of validity of their
6 authorization on the disclosure authorization form.

7 (7) Except for authorizations to provide information to third-party
8 health payors, an authorization in effect on the effective date of this
9 section remains valid for six months after the effective date of this
10 section unless an earlier date is specified or it is revoked under
11 section 203 of this act. Health care information disclosed under such
12 an authorization is otherwise subject to this chapter. An
13 authorization written after the effective date of this section becomes
14 invalid after the expiration date contained in the authorization, which
15 may not exceed ninety days. If the authorization does not contain an
16 expiration date, it expires ninety days after it is signed.

17 NEW SECTION. **Sec. 203.** PATIENT'S REVOCATION OF AUTHORIZATION FOR
18 DISCLOSURE. A patient may revoke in writing a disclosure authorization
19 to a health care provider at any time unless disclosure is required to
20 effectuate payments for health care that has been provided or other
21 substantial action has been taken in reliance on the authorization. A
22 patient may not maintain an action against the health care provider for
23 disclosures made in good-faith reliance on an authorization if the
24 health care provider had no actual notice of the revocation of the
25 authorization.

26 NEW SECTION. **Sec. 204.** DISCLOSURE WITHOUT PATIENT'S
27 AUTHORIZATION. (1) A health care provider may disclose health care

1 information about a patient without the patient's authorization to the
2 extent a recipient needs to know the information, if the disclosure is:

3 (a) To a person who the provider reasonably believes is providing
4 health care to the patient;

5 (b) To any other person who requires health care information for
6 health care education, or to provide planning, quality assurance, peer
7 review, or administrative, legal, financial, or actuarial services to
8 the health care provider; or for assisting the health care provider in
9 the delivery of health care and the health care provider reasonably
10 believes that the person:

11 (i) Will not use or disclose the health care information for any
12 other purpose; and

13 (ii) Will take appropriate steps to protect the health care
14 information;

15 (c) To any other health care provider reasonably believed to have
16 previously provided health care to the patient, to the extent necessary
17 to provide health care to the patient, unless the patient has
18 instructed the health care provider in writing not to make the
19 disclosure;

20 (d) To any person if the health care provider reasonably believes
21 that disclosure will avoid or minimize an imminent danger to the health
22 or safety of the patient or any other individual, however there is no
23 obligation on the part of the provider to so disclose;

24 (e) Oral, and made to immediate family members of the patient, or
25 any other individual with whom the patient is known to have a close
26 personal relationship, if made in accordance with good medical or other
27 professional practice, unless the patient has instructed the health
28 care provider in writing not to make the disclosure;

29 (f) To a health care provider who is the successor in interest to
30 the health care provider maintaining the health care information;

1 (g) For use in a research project that an institutional review
2 board has determined:

3 (i) Is of sufficient importance to outweigh the intrusion into the
4 privacy of the patient that would result from the disclosure;

5 (ii) Is impracticable without the use or disclosure of the health
6 care information in individually identifiable form;

7 (iii) Contains reasonable safeguards to protect the information
8 from redisclosure;

9 (iv) Contains reasonable safeguards to protect against identifying,
10 directly or indirectly, any patient in any report of the research
11 project; and

12 (v) Contains procedures to remove or destroy at the earliest
13 opportunity, consistent with the purposes of the project, information
14 that would enable the patient to be identified, unless an institutional
15 review board authorizes retention of identifying information for
16 purposes of another research project;

17 (h) To a person who obtains information for purposes of an audit,
18 if that person agrees in writing to:

19 (i) Remove or destroy, at the earliest opportunity consistent with
20 the purpose of the audit, information that would enable the patient to
21 be identified; and

22 (ii) Not to disclose the information further, except to accomplish
23 the audit or report unlawful or improper conduct involving fraud in
24 payment for health care by a health care provider or patient, or other
25 unlawful conduct by the health care provider;

26 (i) To an official of a penal or other custodial institution in
27 which the patient is detained.

28 (2) A health care provider may disclose health care information
29 about a patient without the patient's authorization if the disclosure
30 is:

1 (a) Directory information, unless the patient has instructed the
2 health care provider not to make the disclosure;

3 (b) To federal, state, or local public health authorities, to the
4 extent the health care provider is required by law to report health
5 care information or when needed to protect the public health;

6 (c) To federal, state, or local law enforcement authorities to the
7 extent required by law;

8 (d) Pursuant to compulsory process in accordance with section 205
9 of this act.

10 NEW SECTION. **Sec. 205.** COMPULSORY PROCESS. (1) Health care
11 information may not be disclosed by a health care provider pursuant to
12 compulsory legal process or discovery in any judicial, legislative, or
13 administrative proceeding unless:

14 (a) The patient has consented in writing to the release of the
15 health care information; or

16 (b) The health care provider notified the patient, the patient's
17 attorney of record, or the patient's personal representative of the
18 compulsory process or discovery request. If the patient, the patient's
19 attorney, or personal representative desires to contest the compulsory
20 process or discovery request, such person may inform the health care
21 provider of such contest prior to the date that the provider is
22 required to respond to the request, and the health care provider may
23 then delay compliance until a decision from a court is obtained as to
24 the disposition of the compulsory process or discovery request.

25 (2) A court shall review contested compulsory legal process or
26 discovery requests which involve health care information in terms of
27 whether the party seeking information has demonstrated that the
28 interest in access outweighs the patient's privacy interests.

1 (3) Production of health care information under this section, in
2 and of itself, does not constitute a waiver of any privilege,
3 objection, or defense existing under other law or rule of evidence or
4 procedure.

5 NEW SECTION. **Sec. 206.** CERTIFICATION OF RECORD. Upon the request
6 of the person requesting the record, the health care provider or
7 facility shall certify the record furnished and may charge for such
8 certification in accordance with RCW 36.18.020(9). No record need be
9 certified until the fee is paid. The certification shall be affixed to
10 the record and disclose:

11 (1) The identity of the patient;

12 (2) The kind of health care information involved;

13 (3) The identity of the person to whom the information is being
14 furnished;

15 (4) The identity of the health care provider or facility furnishing
16 the information;

17 (5) The number of pages of the health care information;

18 (6) The date on which the health care information is furnished; and

19 (7) That the certification is to fulfill and meet the requirements
20 of this section.

21 ARTICLE III

22 EXAMINATION AND COPYING OF RECORD

23 NEW SECTION. **Sec. 301.** REQUIREMENTS AND PROCEDURES FOR PATIENT'S
24 EXAMINATION AND COPYING. (1) Upon receipt of a written request from a
25 patient to examine or copy all or part of the patient's recorded health
26 care information, a health care provider, as promptly as required under

1 the circumstances, but no later than fifteen working days after
2 receiving the request shall:

3 (a) Make the information available for examination during regular
4 business hours and provide a copy, if requested, to the patient;

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

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

10 (d) If the information is in use or unusual circumstances have
11 delayed handling the request, inform the patient and specify in writing
12 the reasons for the delay and the earliest date, not later than twenty-
13 one working days after receiving the request, when the information will
14 be available for examination or copying or when the request will be
15 otherwise disposed of; or

16 (e) Deny the request, in whole or in part, under section 302 of
17 this act and inform the patient.

18 (2) Upon request, the health care provider shall provide an
19 explanation of any code or abbreviation used in the health care
20 information. If a record of the particular health care information
21 requested is not maintained by the health care provider in the
22 requested form, the health care provider is not required to create a
23 new record or reformulate an existing record to make the health care
24 information available in the requested form. The health care provider
25 may charge a reasonable fee, not to exceed the health care provider's
26 actual cost, for providing the health care information and is not
27 required to permit examination or copying until the fee is paid.

28 NEW SECTION. **Sec. 302.** DENIAL OF EXAMINATION AND COPYING. (1)
29 Subject to any conflicting requirement in the public disclosure act,

1 chapter 42.17 RCW, a health care provider may deny access to health
2 care information by a patient if the health care provider reasonably
3 concludes that:

4 (a) Knowledge of the health care information would be injurious to
5 the health of the patient;

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

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

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

15 (e) Access to the health care information is otherwise prohibited
16 by law.

17 (2) If a health care provider denies a request for examination and
18 copying under this section, the provider, to the extent possible, shall
19 segregate health care information for which access has been denied
20 under subsection (1) of this section from information for which access
21 cannot be denied and permit the patient to examine or copy the
22 disclosable information.

23 (3) If a health care provider denies a patient's request for
24 examination and copying, in whole or in part, under subsection (1) (a)
25 or (c) of this section, the provider shall permit examination and
26 copying of the record by another health care provider, selected by the
27 patient, who is licensed, certified, registered, or otherwise
28 authorized under the laws of this state to treat the patient for the
29 same condition as the health care provider denying the request. The
30 health care provider denying the request shall inform the patient of

1 the patient's right to select another health care provider under this
2 subsection. The patient shall be responsible for arranging for
3 compensation of the other health care provider so selected.

4 ARTICLE IV

5 CORRECTION AND AMENDMENT OF RECORD

6 NEW SECTION. **Sec. 401.** REQUEST FOR CORRECTION OR AMENDMENT.(1)

7 For purposes of accuracy or completeness, a patient may request in
8 writing that a health care provider correct or amend its record of the
9 patient's health care information to which a patient has access under
10 section 301 of this act.

11 (2) As promptly as required under the circumstances, but no later
12 than ten days after receiving a request from a patient to correct or
13 amend its record of the patient's health care information, the health
14 care provider shall:

15 (a) Make the requested correction or amendment and inform the
16 patient of the action;

17 (b) Inform the patient if the record no longer exists or cannot be
18 found;

19 (c) If the health care provider does not maintain the record,
20 inform the patient and provide the patient with the name and address,
21 if known, of the person who maintains the record;

22 (d) If the record is in use or unusual circumstances have delayed
23 the handling of the correction or amendment request, inform the patient
24 and specify in writing, the earliest date, not later than twenty-one
25 days after receiving the request, when the correction or amendment will
26 be made or when the request will otherwise be disposed of; or

1 (e) Inform the patient in writing of the provider's refusal to
2 correct or amend the record as requested and the patient's right to add
3 a statement of disagreement.

4 NEW SECTION. **Sec. 402.** PROCEDURE FOR ADDING CORRECTION OR
5 AMENDMENT OR STATEMENT OF DISAGREEMENT. (1) In making a correction or
6 amendment, the health care provider shall:

7 (a) Add the amending information as a part of the health record;
8 and

9 (b) Mark the challenged entries as corrected or amended entries and
10 indicate the place in the record where the corrected or amended
11 information is located, in a manner practicable under the
12 circumstances.

13 (2) If the health care provider maintaining the record of the
14 patient's health care information refuses to make the patient's
15 proposed correction or amendment, the provider shall:

16 (a) Permit the patient to file as a part of the record of the
17 patient's health care information a concise statement of the correction
18 or amendment requested and the reasons therefor; and

19 (b) Mark the challenged entry to indicate that the patient claims
20 the entry is inaccurate or incomplete and indicate the place in the
21 record where the statement of disagreement is located, in a manner
22 practicable under the circumstances.

23 ARTICLE V

24 NOTICE OF INFORMATION PRACTICES

25 NEW SECTION. **Sec. 501.** CONTENT AND DISSEMINATION OF NOTICE. (1)

26 A health care provider who provides health care at a health care

1 facility that the provider operates and who maintains a record of a
2 patient's health care information shall create a "notice of information
3 practices" that contains substantially the following:

4 NOTICE

5 "We keep a record of the health care services we provide you. You
6 may ask us to see and copy that record. You may also ask us to
7 correct that record. We will not disclose your record to others
8 unless you direct us to do so or unless the law authorizes or
9 compels us to do so. You may see your record or get more
10 information about it at"

11 (2) The health care provider shall place a copy of the notice of
12 information practices in a conspicuous place in the health care
13 facility, on a consent form or with a billing or other notice provided
14 to the patient.

15 ARTICLE VI

16 PERSONS AUTHORIZED TO ACT FOR PATIENT

17 NEW SECTION. **Sec. 601.** HEALTH CARE REPRESENTATIVES. (1) A person
18 authorized to consent to health care for another may exercise the
19 rights of that person under this chapter to the extent necessary to
20 effectuate the terms or purposes of the grant of authority. If the
21 patient is a minor and is authorized to consent to health care without
22 parental consent under federal and state law, only the minor may
23 exercise the rights of a patient under this chapter as to information
24 pertaining to health care to which the minor lawfully consented. In
25 cases where parental consent is required, a health care provider may
26 rely, without incurring any civil criminal liability for such reliance,

1 on the representation of a parent that he or she is authorized to
2 consent to health care for the minor patient regardless of whether:

3 (a) The parents are married, unmarried, or separated at the time of
4 the representation;

5 (b) The consenting parent is, or is not, a custodial parent of the
6 minor;

7 (c) The giving of consent by a parent is, or is not, full
8 performance of any agreement between the parents, or of any order or
9 decree in any action entered pursuant to chapter 26.09 RCW.

10 (2) A person authorized to act for a patient shall act in good
11 faith to represent the best interests of the patient.

12 NEW SECTION. **Sec. 602.** REPRESENTATIVE OF DECEASED PATIENT. A
13 personal representative of a deceased patient may exercise all of the
14 deceased patient's rights under this chapter. If there is no personal
15 representative, or upon discharge of the personal representative, a
16 deceased patient's rights under this chapter may be exercised by
17 persons who would have been authorized to make health care decisions
18 for the deceased patient when the patient was living under RCW
19 7.70.065.

20 ARTICLE VII

21 SECURITY SAFEGUARDS AND RECORD RETENTION

22 NEW SECTION. **Sec. 701.** DUTY TO ADOPT SECURITY SAFEGUARDS. A
23 health care provider shall effect reasonable safeguards for the
24 security of all health care information it maintains.

1 NEW SECTION. **Sec. 901.** CONFLICTING LAWS. (1) This chapter does
2 not restrict a health care provider from complying with obligations
3 imposed by federal or state health care payment programs or federal or
4 state law.

5 (2) This chapter does not apply to disclosure under RCW 13.50.100,
6 70.39.110, 71.05.390, 71.34.200, or chapters 70.24 and 70.96A RCW.

7 NEW SECTION. **Sec. 902.** A new section is added to chapter 42.17
8 RCW to read as follows:

9 FREEDOM OF INFORMATION ACT. Chapter 70.-- RCW (sections 101
10 through 901 of this act) applies to public inspection and copying of
11 health care information of patients.

12 NEW SECTION. **Sec. 903.** UNIFORMITY OF APPLICATION AND
13 CONSTRUCTION. This act shall be applied and construed to effectuate
14 its general purpose to make uniform the law with respect to the subject
15 of this act among states enacting it.

16 NEW SECTION. **Sec. 904.** SHORT TITLE. This act may be cited as the
17 uniform health care information act.

18 NEW SECTION. **Sec. 905.** SEVERABILITY. If any provision of this
19 act or its application to any person or circumstance is held invalid,
20 the remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 906.** SAVING CLAUSE. This act does not affect
23 other law restricting, to a greater extent than does this act, the
24 disclosure of specific types of health care information to any person
25 other than the patient to whom it relates.

1 NEW SECTION. **Sec. 907.** CAPTIONS. As used in this act, captions
2 constitute no part of the law.

3 NEW SECTION. **Sec. 908.** LEGISLATIVE DIRECTIVE. Sections 101
4 through 901 of this act shall constitute a new chapter in Title 70 RCW.