
Health Care & Wellness Committee

HB 2316

Brief Description: Regarding the disclosure of health care information.

Sponsors: Representatives Cody, Hinkle and Green.

Brief Summary of Bill

- Maintains heightened standards of privacy for patient information and records related to mental health services and information related to sexually transmitted disease while consolidating those provisions in the Uniform Health Care Information Act.
- Changes and adds situations in which the disclosure of mental health and sexually transmitted disease information is permitted without an authorization such as to provide health care to the patient, for research, and to coroners and medical examiners.

Hearing Date: 1/16/12

Staff: Chris Blake (786-7392).

Background:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) establishes nationwide standards for the use, disclosure, storage, and transfer of protected health information. Entities covered by the HIPAA must have a patient's authorization to use or disclose health care information, unless there is a specified exception. Some exceptions pertain to disclosures for treatment, payment, and health care operations; public health activities; judicial proceedings; law enforcement purposes; and research purposes. The HIPAA allows a state to establish standards that are more stringent than its provisions.

In Washington, the Uniform Health Care Information Act (UHCIA) governs the disclosure of health care information by health care providers and their agents or employees. The UHCIA provides that a health care provider may not disclose health care information about a patient unless there is a statutory exception or a written authorization by the patient. Some exceptions

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

include disclosures for the provision of health care; quality improvement, legal, actuarial, and administrative services; research purposes; directory information; public health and law enforcement activities as required by law; and judicial proceedings.

Washington has heightened protections for information related to mental health, human immunodeficiency virus (HIV), and sexually transmitted disease (STD). For mental health information, the fact of admission and all information and records compiled in the course of providing services to patients at public or private mental health agencies is confidential. With respect to HIV and STD information, it is prohibited to disclose the identity of a person who has considered or requested a test for a STD; the identity of the subject of a HIV antibody test or test for any other STD; the results of those tests, and information regarding the diagnosis of or treatment for HIV infection and for any other confirmed STD. Both the protections related to mental health, HIV, and STD information have several exceptions to allow the disclosure of the information without the patient's authorization or consent.

Summary of Bill:

The term "information and records related to mental health services" (mental health information) is codified under the UHCIA with predominantly the same meaning as related terms in the mental health statutes. The term "information and records related to sexually transmitted diseases" (STD information) is defined, similar to the standard in the STD statute, as health care information related to the identity of a person who has had a HIV or other STD test performed upon them, any positive results of such tests, and any information regarding the diagnosis or treatment of a STD. Both definitions expressly state that they are a type of "health care information."

Statutory provisions related to the disclosure of mental health information, including children's mental health information, and STD information are consolidated into the UHCIA. The heightened standards of privacy for those types of information are maintained.

General Mental Health Information.

Patient mental health information disclosure standards are maintained as they have been in the mental health chapters, except in some cases in which there is either a change in the disclosure without authorization standard or a new type of disclosure without authorization is established. These include:

- Mental health information may be disclosed to a person who is providing health care to the patient as provided under the UHCIA.
- The permitted disclosure of mental health records for management or financial audits is changed to the UHCIA standard that allows disclosure to a person for health care education; planning; quality assurance; peer review; administrative, legal, financial, or actuarial purposes; or for assisting a health care provider or facility in the delivery of health care.
- The permitted disclosure of (1) mental health information for evaluation or research subject to the Department of Social and Health Services (DSHS) adopting related rules and the researcher signing an oath of confidentiality and (2) mental health records for

purposes of research, are changed to the UHCIA standard allowing disclosures for use in a research project approved by an institutional review board.

- Mental health information may be disclosed to an official of a penal or other custodial institution in which the patient is detained.
- The permitted disclosure of (1) mental health information for a recipient of the information to make a claim for aid, insurance, or Medicaid and (2) mental health treatment records to the DSHS, regional support network directors, or qualified staff when needed for billing and collection purposes, are changed to allow disclosures for payment, including making a claim for aid, insurance, or medical assistance.
- The permitted disclosure of mental health information to the DOH for determining compliance with licensing standards is changed to the UHCIA standard that requires that the information be provided to federal, state, or local public health authorities as required by law to determine compliance with credentialing laws or to protect public health.
- Mental health information must be disclosed to county coroners and medical examiners for death investigations.

In cases in which there is not a specific exception to the privacy standard, the subject of the mental health information may allow disclosure pursuant to the written authorization requirements of the UHCIA, as opposed to the undefined "release" and "written informed consent" requirements of the mental health chapters.

General STD Information.

Patient STD information disclosure standards are maintained as they have been in the STD chapter, except in some cases in which there is either a change in the disclosure without authorization standard or a new type of disclosure without authorization is established. These include:

- The permitted disclosure of STD information according to customary methods for health care providers and facilities to provide health care services is changed to the UHCIA standard allowing disclosures to a person who is providing health care to the patient.
- Sexually transmitted disease information may be disclosed to a person for health care education; planning; quality assurance; peer review; administrative, legal, financial, or actuarial purposes; or for assisting a health care provider or facility in the delivery of health care as provided in the UHCIA.
- Sexually transmitted disease information may be disclosed for use in a research project approved by an institutional review board as provided in the UHCIA.
- Sexually transmitted disease information may be disclosed for payment, including making a claim for aid, insurance, or medical assistance.
- Sexually transmitted disease information is required to be disclosed to federal, state, or local public health authorities as required by law to determine compliance with credentialing laws or to protect public health as provided in the UHCIA.
- Sexually transmitted disease information must be disclosed to county coroners and medical examiners for death investigations as provided in the UHCIA.

In cases in which there is not a specific exception to the privacy standard, the subject of the STD information may allow disclosure pursuant to the written authorization requirements of the UHCIA, as opposed to the undefined "release" requirement of the STD chapters.

Appropriation: None.

Fiscal Note: Requested on January 12, 2012.

Effective Date: The bill takes effect on January 1, 2013.