

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6106

Chapter 235, Laws of 2006

59th Legislature
2006 Regular Session

HEALTH CARE INFORMATION DISCLOSURE--LAW ENFORCEMENT PERSONNEL

EFFECTIVE DATE: 3/27/06

Passed by the Senate March 4, 2006
YEAS 43 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House February 28, 2006
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6106** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved March 27, 2006.

FILED

March 27, 2006 - 2:37 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6106

AS AMENDED BY THE HOUSE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senator Brandland)

READ FIRST TIME 02/01/06.

1 AN ACT Relating to disclosure of health care information for law
2 enforcement purposes; amending RCW 70.02.010, 70.02.050, and 68.50.320;
3 creating a new section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The purpose of this act is to aid law
6 enforcement in combating crime through the rapid identification of all
7 persons who require medical treatment as a result of a criminal act and
8 to assist in the rapid identification of human remains.

9 **Sec. 2.** RCW 70.02.010 and 2005 c 468 s 1 are each amended to read
10 as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

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

16 (a) Statutory, regulatory, fiscal, medical, or scientific
17 standards;

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

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

4 (2) "Directory information" means information disclosing the
5 presence, and for the purpose of identification, the name, location
6 within a health care facility, and the general health condition of a
7 particular patient who is a patient in a health care facility or who is
8 currently receiving emergency health care in a health care facility.

9 (3) "Federal, state, or local law enforcement authorities" means an
10 officer of any agency or authority in the United States, a state, a
11 tribe, a territory, or a political subdivision of a state, a tribe, or
12 a territory who is empowered by law to: (a) Investigate or conduct an
13 official inquiry into a potential criminal violation of law; or (b)
14 prosecute or otherwise conduct a criminal proceeding arising from an
15 alleged violation of law.

16 (4) "General health condition" means the patient's health status
17 described in terms of "critical," "poor," "fair," "good," "excellent,"
18 or terms denoting similar conditions.

19 ((+4)) (5) "Health care" means any care, service, or procedure
20 provided by a health care provider:

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

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

24 ((+5)) (6) "Health care facility" means a hospital, clinic,
25 nursing home, laboratory, office, or similar place where a health care
26 provider provides health care to patients.

27 ((+6)) (7) "Health care information" means any information,
28 whether oral or recorded in any form or medium, that identifies or can
29 readily be associated with the identity of a patient and directly
30 relates to the patient's health care, including a patient's
31 deoxyribonucleic acid and identified sequence of chemical base pairs.
32 The term includes any required accounting of disclosures of health care
33 information.

34 ((+7)) (8) "Health care operations" means any of the following
35 activities of a health care provider, health care facility, or third-
36 party payor to the extent that the activities are related to functions
37 that make an entity a health care provider, a health care facility, or
38 a third-party payor:

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

9 (b) Reviewing the competence or qualifications of health care
10 professionals, evaluating practitioner and provider performance and
11 third-party payor performance, conducting training programs in which
12 students, trainees, or practitioners in areas of health care learn
13 under supervision to practice or improve their skills as health care
14 providers, training of nonhealth care professionals, accreditation,
15 certification, licensing, or credentialing activities;

16 (c) Underwriting, premium rating, and other activities relating to
17 the creation, renewal, or replacement of a contract of health insurance
18 or health benefits, and ceding, securing, or placing a contract for
19 reinsurance of risk relating to claims for health care, including stop-
20 loss insurance and excess of loss insurance, if any applicable legal
21 requirements are met;

22 (d) Conducting or arranging for medical review, legal services, and
23 auditing functions, including fraud and abuse detection and compliance
24 programs;

25 (e) Business planning and development, such as conducting cost-
26 management and planning-related analyses related to managing and
27 operating the health care facility or third-party payor, including
28 formulary development and administration, development, or improvement
29 of methods of payment or coverage policies; and

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

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

35 (ii) Customer service, including the provision of data analyses for
36 policy holders, plan sponsors, or other customers, provided that health
37 care information is not disclosed to such policy holder, plan sponsor,
38 or customer;

1 (iii) Resolution of internal grievances;

2 (iv) The sale, transfer, merger, or consolidation of all or part of
3 a health care provider, health care facility, or third-party payor with
4 another health care provider, health care facility, or third-party
5 payor or an entity that following such activity will become a health
6 care provider, health care facility, or third-party payor, and due
7 diligence related to such activity; and

8 (v) Consistent with applicable legal requirements, creating
9 deidentified health care information or a limited dataset and fund-
10 raising for the benefit of the health care provider, health care
11 facility, or third-party payor.

12 (~~(+8)~~) (9) "Health care provider" means a person who is licensed,
13 certified, registered, or otherwise authorized by the law of this state
14 to provide health care in the ordinary course of business or practice
15 of a profession.

16 (~~(+9)~~) (10) "Institutional review board" means any board,
17 committee, or other group formally designated by an institution, or
18 authorized under federal or state law, to review, approve the
19 initiation of, or conduct periodic review of research programs to
20 assure the protection of the rights and welfare of human research
21 subjects.

22 (~~(+10)~~) (11) "Maintain," as related to health care information,
23 means to hold, possess, preserve, retain, store, or control that
24 information.

25 (~~(+11)~~) (12) "Patient" means an individual who receives or has
26 received health care. The term includes a deceased individual who has
27 received health care.

28 (~~(+12)~~) (13) "Payment" means:

29 (a) The activities undertaken by:

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

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

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

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

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

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

9 (iv) Review of health care services with respect to medical
10 necessity, coverage under a health plan, appropriateness of care, or
11 justification of charges;

12 (v) Utilization review activities, including precertification and
13 preauthorization of services, and concurrent and retrospective review
14 of services; and

15 (vi) Disclosure to consumer reporting agencies of any of the
16 following health care information relating to collection of premiums or
17 reimbursement:

18 (A) Name and address;

19 (B) Date of birth;

20 (C) Social security number;

21 (D) Payment history;

22 (E) Account number; and

23 (F) Name and address of the health care provider, health care
24 facility, and/or third-party payor.

25 ((+13+)) (14) "Person" means an individual, corporation, business
26 trust, estate, trust, partnership, association, joint venture,
27 government, governmental subdivision or agency, or any other legal or
28 commercial entity.

29 ((+14+)) (15) "Reasonable fee" means the charges for duplicating or
30 searching the record, but shall not exceed sixty-five cents per page
31 for the first thirty pages and fifty cents per page for all other
32 pages. In addition, a clerical fee for searching and handling may be
33 charged not to exceed fifteen dollars. These amounts shall be adjusted
34 biennially in accordance with changes in the consumer price index, all
35 consumers, for Seattle-Tacoma metropolitan statistical area as
36 determined by the secretary of health. However, where editing of
37 records by a health care provider is required by statute and is done by

1 the provider personally, the fee may be the usual and customary charge
2 for a basic office visit.

3 ~~((15))~~ (16) "Third-party payor" means an insurer regulated under
4 Title 48 RCW authorized to transact business in this state or other
5 jurisdiction, including a health care service contractor, and health
6 maintenance organization; or an employee welfare benefit plan; or a
7 state or federal health benefit program.

8 ~~((16))~~ (17) "Treatment" means the provision, coordination, or
9 management of health care and related services by one or more health
10 care providers or health care facilities, including the coordination or
11 management of health care by a health care provider or health care
12 facility with a third party; consultation between health care providers
13 or health care facilities relating to a patient; or the referral of a
14 patient for health care from one health care provider or health care
15 facility to another.

16 **Sec. 3.** RCW 70.02.050 and 2005 c 468 s 4 are each amended to read
17 as follows:

18 (1) A health care provider or health care facility may disclose
19 health care information about a patient without the patient's
20 authorization to the extent a recipient needs to know the information,
21 if the disclosure is:

22 (a) To a person who the provider or facility reasonably believes is
23 providing health care to the patient;

24 (b) To any other person who requires health care information for
25 health care education, or to provide planning, quality assurance, peer
26 review, or administrative, legal, financial, actuarial services to, or
27 other health care operations for or on behalf of the health care
28 provider or health care facility; or for assisting the health care
29 provider or health care facility in the delivery of health care and the
30 health care provider or health care facility reasonably believes that
31 the person:

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

34 (ii) Will take appropriate steps to protect the health care
35 information;

36 (c) To any other health care provider or health care facility
37 reasonably believed to have previously provided health care to the

1 patient, to the extent necessary to provide health care to the patient,
2 unless the patient has instructed the health care provider or health
3 care facility in writing not to make the disclosure;

4 (d) To any person if the health care provider or health care
5 facility reasonably believes that disclosure will avoid or minimize an
6 imminent danger to the health or safety of the patient or any other
7 individual, however there is no obligation under this chapter on the
8 part of the provider or facility to so disclose;

9 (e) To immediate family members of the patient, or any other
10 individual with whom the patient is known to have a close personal
11 relationship, if made in accordance with good medical or other
12 professional practice, unless the patient has instructed the health
13 care provider or health care facility in writing not to make the
14 disclosure;

15 (f) To a health care provider or health care facility who is the
16 successor in interest to the health care provider or health care
17 facility maintaining the health care information;

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

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

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

24 (iii) Contains reasonable safeguards to protect the information
25 from redisclosure;

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

29 (v) Contains procedures to remove or destroy at the earliest
30 opportunity, consistent with the purposes of the project, information
31 that would enable the patient to be identified, unless an institutional
32 review board authorizes retention of identifying information for
33 purposes of another research project;

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

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

1 (ii) Not to disclose the information further, except to accomplish
2 the audit or report unlawful or improper conduct involving fraud in
3 payment for health care by a health care provider or patient, or other
4 unlawful conduct by the health care provider;

5 (i) To an official of a penal or other custodial institution in
6 which the patient is detained;

7 (j) To provide directory information, unless the patient has
8 instructed the health care provider or health care facility not to make
9 the disclosure;

10 (k) To fire, police, sheriff, or another public authority, that
11 brought, or caused to be brought, the patient to the health care
12 facility or health care provider if the disclosure is limited to the
13 patient's name, residence, sex, age, occupation, condition, diagnosis,
14 estimated or actual discharge date, or extent and location of injuries
15 as determined by a physician, and whether the patient was conscious
16 when admitted;

17 (l) To federal, state, or local law enforcement authorities and the
18 health care provider, health care facility, or third-party payor
19 believes in good faith that the health care information disclosed
20 constitutes evidence of criminal conduct that occurred on the premises
21 of the health care provider, health care facility, or third-party
22 payor;

23 (m) To another health care provider, health care facility, or
24 third-party payor for the health care operations of the health care
25 provider, health care facility, or third-party payor that receives the
26 information, if each entity has or had a relationship with the patient
27 who is the subject of the health care information being requested, the
28 health care information pertains to such relationship, and the
29 disclosure is for the purposes described in RCW 70.02.010(~~(+7)~~) (8)
30 (a) and (b); or

31 (n) For payment.

32 (2) A health care provider shall disclose health care information
33 about a patient without the patient's authorization if the disclosure
34 is:

35 (a) To federal, state, or local public health authorities, to the
36 extent the health care provider is required by law to report health
37 care information; when needed to determine compliance with state or

1 federal licensure, certification or registration rules or laws; or when
2 needed to protect the public health;

3 (b) To federal, state, or local law enforcement authorities to the
4 extent the health care provider is required by law;

5 (c) To federal, state, or local law enforcement authorities, upon
6 receipt of a written or oral request made to a nursing supervisor,
7 administrator, or designated privacy official, in a case in which the
8 patient is being treated or has been treated for a bullet wound,
9 gunshot wound, powder burn, or other injury arising from or caused by
10 the discharge of a firearm, or an injury caused by a knife, an ice
11 pick, or any other sharp or pointed instrument which federal, state, or
12 local law enforcement authorities reasonably believe to have been
13 intentionally inflicted upon a person, or a blunt force injury that
14 federal, state, or local law enforcement authorities reasonably believe
15 resulted from a criminal act, the following information, if known:

16 (i) The name of the patient;

17 (ii) The patient's residence;

18 (iii) The patient's sex;

19 (iv) The patient's age;

20 (v) The patient's condition;

21 (vi) The patient's diagnosis, or extent and location of injuries as
22 determined by a health care provider;

23 (vii) Whether the patient was conscious when admitted;

24 (viii) The name of the health care provider making the
25 determination in (c)(v), (vi), and (vii) of this subsection;

26 (ix) Whether the patient has been transferred to another facility;

27 and

28 (x) The patient's discharge time and date;

29 (d) To county coroners and medical examiners for the investigations
30 of deaths;

31 ((+d)) (e) Pursuant to compulsory process in accordance with RCW
32 70.02.060.

33 (3) All state or local agencies obtaining patient health care
34 information pursuant to this section shall adopt rules establishing
35 their record acquisition, retention, and security policies that are
36 consistent with this chapter.

1 **Sec. 4.** RCW 68.50.320 and 2001 c 223 s 1 are each amended to read
2 as follows:

3 When a person reported missing has not been found within thirty
4 days of the report, the sheriff, chief of police, county coroner or
5 county medical examiner, or other law enforcement authority initiating
6 and conducting the investigation for the missing person shall ask the
7 missing person's family or next of kin to give written consent to
8 contact the dentist or dentists of the missing person and request the
9 person's dental records.

10 The missing person's dentist or dentists shall provide diagnostic
11 quality copies of the missing person's dental records or original
12 dental records to the sheriff, chief of police, county coroner or
13 county medical examiner, or other law enforcement authority, when
14 presented with the written consent from the missing person's family or
15 next of kin or with a statement from the sheriff, chief of police,
16 county coroner or county medical examiner, or other law enforcement
17 authority that the missing person's family or next of kin could not be
18 located in the exercise of due diligence or that the missing person's
19 family or next of kin refuse to consent to the release of the missing
20 person's dental records and there is reason to believe that the missing
21 person's family or next of kin may have been involved in the missing
22 person's disappearance.

23 When a person reported missing has not been found within thirty
24 days, the sheriff, chief of police, or other law enforcement authority
25 initiating and conducting the investigation for the missing person
26 shall confer with the county coroner or medical examiner prior to the
27 preparation of a missing person's report. After conferring with the
28 coroner or medical examiner, the sheriff, chief of police, or other law
29 enforcement authority shall submit a missing person's report and the
30 dental records received under this section to the dental identification
31 system of the state patrol identification, child abuse, vulnerable
32 adult abuse, and criminal history section on forms supplied by the
33 state patrol for such purpose.

34 When a person reported missing has been found, the sheriff, chief
35 of police, coroner or medical examiner, or other law enforcement
36 authority shall report such information to the state patrol.

37 The dental identification system shall maintain a file of
38 information regarding persons reported to it as missing. The file

1 shall contain the information referred to in this section and such
2 other information as the state patrol finds relevant to assist in the
3 location of a missing person.

4 The files of the dental identification system shall, upon request,
5 be made available to law enforcement agencies attempting to locate
6 missing persons.

7 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 immediately.

Passed by the Senate March 4, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 27, 2006.

Filed in Office of Secretary of State March 27, 2006.