

CERTIFICATION OF ENROLLMENT

SENATE BILL 5773

Chapter 191, Laws of 2007

60th Legislature
2007 Regular Session

TREATMENT RECORDS

EFFECTIVE DATE: 07/22/07

Passed by the Senate March 8, 2007
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 11, 2007
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 21, 2007, 11:35 a.m.

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5773** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 23, 2007

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 5773

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senators Hargrove, Parlette and Keiser; by request of Department of Social and Health Services

Read first time 01/31/2007. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to treatment records; and amending RCW 71.05.630
2 and 71.05.020.

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

4 **Sec. 1.** RCW 71.05.630 and 2005 c 504 s 112 are each amended to
5 read as follows:

6 (1) Except as otherwise provided by law, all treatment records
7 shall remain confidential and may be released only to the persons
8 designated in this section, or to other persons designated in an
9 informed written consent of the patient.

10 (2) Treatment records of a person may be released without informed
11 written consent in the following circumstances:

12 (a) To a person, organization, or agency as necessary for
13 management or financial audits, or program monitoring and evaluation.
14 Information obtained under this subsection shall remain confidential
15 and may not be used in a manner that discloses the name or other
16 identifying information about the person whose records are being
17 released.

18 (b) To the department, the director of regional support networks,

1 or a qualified staff member designated by the director only when
2 necessary to be used for billing or collection purposes. The
3 information shall remain confidential.

4 (c) For purposes of research as permitted in chapter 42.48 RCW.

5 (d) Pursuant to lawful order of a court.

6 (e) To qualified staff members of the department, to the director
7 of regional support networks, to resource management services
8 responsible for serving a patient, or to service providers designated
9 by resource management services as necessary to determine the progress
10 and adequacy of treatment and to determine whether the person should be
11 transferred to a less restrictive or more appropriate treatment
12 modality or facility. The information shall remain confidential.

13 (f) Within the treatment facility where the patient is receiving
14 treatment, confidential information may be disclosed to persons
15 employed, serving in bona fide training programs, or participating in
16 supervised volunteer programs, at the facility when it is necessary to
17 perform their duties.

18 (g) Within the department as necessary to coordinate treatment for
19 mental illness, developmental disabilities, alcoholism, or drug abuse
20 of persons who are under the supervision of the department.

21 (h) To a licensed physician who has determined that the life or
22 health of the person is in danger and that treatment without the
23 information contained in the treatment records could be injurious to
24 the patient's health. Disclosure shall be limited to the portions of
25 the records necessary to meet the medical emergency.

26 (i) To a facility that is to receive a person who is involuntarily
27 committed under chapter 71.05 RCW, or upon transfer of the person from
28 one treatment facility to another. The release of records under this
29 subsection shall be limited to the treatment records required by law,
30 a record or summary of all somatic treatments, and a discharge summary.
31 The discharge summary may include a statement of the patient's problem,
32 the treatment goals, the type of treatment which has been provided, and
33 recommendation for future treatment, but may not include the patient's
34 complete treatment record.

35 (j) Notwithstanding the provisions of RCW 71.05.390(7), to a
36 correctional facility or a corrections officer who is responsible for
37 the supervision of a person who is receiving inpatient or outpatient

1 evaluation or treatment. Except as provided in RCW 71.05.445 and
2 (~~71.34.225~~) 71.34.345, release of records under this section is
3 limited to:

4 (i) An evaluation report provided pursuant to a written supervision
5 plan.

6 (ii) The discharge summary, including a record or summary of all
7 somatic treatments, at the termination of any treatment provided as
8 part of the supervision plan.

9 (iii) When a person is returned from a treatment facility to a
10 correctional facility, the information provided under (j)(iv) of this
11 subsection.

12 (iv) Any information necessary to establish or implement changes in
13 the person's treatment plan or the level or kind of supervision as
14 determined by resource management services. In cases involving a
15 person transferred back to a correctional facility, disclosure shall be
16 made to clinical staff only.

17 (k) To the person's counsel or guardian ad litem, without
18 modification, at any time in order to prepare for involuntary
19 commitment or recommitment proceedings, reexaminations, appeals, or
20 other actions relating to detention, admission, commitment, or
21 patient's rights under chapter 71.05 RCW.

22 (l) To staff members of the protection and advocacy agency or to
23 staff members of a private, nonprofit corporation for the purpose of
24 protecting and advocating the rights of persons with mental disorders
25 or developmental disabilities. Resource management services may limit
26 the release of information to the name, birthdate, and county of
27 residence of the patient, information regarding whether the patient was
28 voluntarily admitted, or involuntarily committed, the date and place of
29 admission, placement, or commitment, the name and address of a guardian
30 of the patient, and the date and place of the guardian's appointment.
31 Any staff member who wishes to obtain additional information shall
32 notify the patient's resource management services in writing of the
33 request and of the resource management services' right to object. The
34 staff member shall send the notice by mail to the guardian's address.
35 If the guardian does not object in writing within fifteen days after
36 the notice is mailed, the staff member may obtain the additional
37 information. If the guardian objects in writing within fifteen days

1 after the notice is mailed, the staff member may not obtain the
2 additional information.

3 (m) For purposes of coordinating health care, the department may
4 release without informed written consent of the patient, information
5 acquired for billing and collection purposes as described in (b) of
6 this subsection to all current treating providers of the patient with
7 prescriptive authority who have written a prescription for the patient
8 within the last twelve months. The department shall notify the patient
9 that billing and collection information has been released to named
10 providers, and provide the substance of the information released and
11 the dates of such release. The department shall not release
12 counseling, inpatient psychiatric hospitalization, or drug and alcohol
13 treatment information without a signed written release from the client.

14 (3) Whenever federal law or federal regulations restrict the
15 release of information contained in the treatment records of any
16 patient who receives treatment for chemical dependency, the department
17 may restrict the release of the information as necessary to comply with
18 federal law and regulations.

19 **Sec. 2.** RCW 71.05.020 and 2005 c 504 s 104 are each amended to
20 read as follows:

21 The definitions in this section apply throughout this chapter
22 unless the context clearly requires otherwise.

23 (1) "Admission" or "admit" means a decision by a physician that a
24 person should be examined or treated as a patient in a hospital;

25 (2) "Antipsychotic medications" means that class of drugs primarily
26 used to treat serious manifestations of mental illness associated with
27 thought disorders, which includes, but is not limited to atypical
28 antipsychotic medications;

29 (3) "Attending staff" means any person on the staff of a public or
30 private agency having responsibility for the care and treatment of a
31 patient;

32 (4) "Commitment" means the determination by a court that a person
33 should be detained for a period of either evaluation or treatment, or
34 both, in an inpatient or a less restrictive setting;

35 (5) "Conditional release" means a revocable modification of a
36 commitment, which may be revoked upon violation of any of its terms;

1 (6) "Custody" means involuntary detention under the provisions of
2 this chapter or chapter 10.77 RCW, uninterrupted by any period of
3 unconditional release from commitment from a facility providing
4 involuntary care and treatment;

5 (7) "Department" means the department of social and health
6 services;

7 (8) "Designated chemical dependency specialist" means a person
8 designated by the county alcoholism and other drug addiction program
9 coordinator designated under RCW 70.96A.310 to perform the commitment
10 duties described in chapters 70.96A and 70.96B RCW;

11 (9) "Designated crisis responder" means a mental health
12 professional appointed by the county or the regional support network to
13 perform the duties specified in this chapter;

14 (10) "Designated mental health professional" means a mental health
15 professional designated by the county or other authority authorized in
16 rule to perform the duties specified in this chapter;

17 (11) "Detention" or "detain" means the lawful confinement of a
18 person, under the provisions of this chapter;

19 (12) "Developmental disabilities professional" means a person who
20 has specialized training and three years of experience in directly
21 treating or working with persons with developmental disabilities and is
22 a psychiatrist, psychologist, or social worker, and such other
23 developmental disabilities professionals as may be defined by rules
24 adopted by the secretary;

25 (13) "Developmental disability" means that condition defined in RCW
26 71A.10.020(3);

27 (14) "Discharge" means the termination of hospital medical
28 authority. The commitment may remain in place, be terminated, or be
29 amended by court order;

30 (15) "Evaluation and treatment facility" means any facility which
31 can provide directly, or by direct arrangement with other public or
32 private agencies, emergency evaluation and treatment, outpatient care,
33 and timely and appropriate inpatient care to persons suffering from a
34 mental disorder, and which is certified as such by the department. A
35 physically separate and separately operated portion of a state hospital
36 may be designated as an evaluation and treatment facility. A facility
37 which is part of, or operated by, the department or any federal agency

1 will not require certification. No correctional institution or
2 facility, or jail, shall be an evaluation and treatment facility within
3 the meaning of this chapter;

4 (16) "Gravely disabled" means a condition in which a person, as a
5 result of a mental disorder: (a) Is in danger of serious physical harm
6 resulting from a failure to provide for his or her essential human
7 needs of health or safety; or (b) manifests severe deterioration in
8 routine functioning evidenced by repeated and escalating loss of
9 cognitive or volitional control over his or her actions and is not
10 receiving such care as is essential for his or her health or safety;

11 (17) "Habilitative services" means those services provided by
12 program personnel to assist persons in acquiring and maintaining life
13 skills and in raising their levels of physical, mental, social, and
14 vocational functioning. Habilitative services include education,
15 training for employment, and therapy. The habilitative process shall
16 be undertaken with recognition of the risk to the public safety
17 presented by the person being assisted as manifested by prior charged
18 criminal conduct;

19 (18) "History of one or more violent acts" refers to the period of
20 time ten years prior to the filing of a petition under this chapter,
21 excluding any time spent, but not any violent acts committed, in a
22 mental health facility or in confinement as a result of a criminal
23 conviction;

24 (19) "Individualized service plan" means a plan prepared by a
25 developmental disabilities professional with other professionals as a
26 team, for a person with developmental disabilities, which shall state:

27 (a) The nature of the person's specific problems, prior charged
28 criminal behavior, and habilitation needs;

29 (b) The conditions and strategies necessary to achieve the purposes
30 of habilitation;

31 (c) The intermediate and long-range goals of the habilitation
32 program, with a projected timetable for the attainment;

33 (d) The rationale for using this plan of habilitation to achieve
34 those intermediate and long-range goals;

35 (e) The staff responsible for carrying out the plan;

36 (f) Where relevant in light of past criminal behavior and due
37 consideration for public safety, the criteria for proposed movement to

1 less-restrictive settings, criteria for proposed eventual discharge or
2 release, and a projected possible date for discharge or release; and

3 (g) The type of residence immediately anticipated for the person
4 and possible future types of residences;

5 (20) "Judicial commitment" means a commitment by a court pursuant
6 to the provisions of this chapter;

7 (21) "Likelihood of serious harm" means:

8 (a) A substantial risk that: (i) Physical harm will be inflicted
9 by a person upon his or her own person, as evidenced by threats or
10 attempts to commit suicide or inflict physical harm on oneself; (ii)
11 physical harm will be inflicted by a person upon another, as evidenced
12 by behavior which has caused such harm or which places another person
13 or persons in reasonable fear of sustaining such harm; or (iii)
14 physical harm will be inflicted by a person upon the property of
15 others, as evidenced by behavior which has caused substantial loss or
16 damage to the property of others; or

17 (b) The person has threatened the physical safety of another and
18 has a history of one or more violent acts;

19 (22) "Mental disorder" means any organic, mental, or emotional
20 impairment which has substantial adverse effects on a person's
21 cognitive or volitional functions;

22 (23) "Mental health professional" means a psychiatrist,
23 psychologist, psychiatric nurse, or social worker, and such other
24 mental health professionals as may be defined by rules adopted by the
25 secretary pursuant to the provisions of this chapter;

26 (24) "Peace officer" means a law enforcement official of a public
27 agency or governmental unit, and includes persons specifically given
28 peace officer powers by any state law, local ordinance, or judicial
29 order of appointment;

30 (25) "Private agency" means any person, partnership, corporation,
31 or association that is not a public agency, whether or not financed in
32 whole or in part by public funds, which constitutes an evaluation and
33 treatment facility or private institution, or hospital, which is
34 conducted for, or includes a department or ward conducted for, the care
35 and treatment of persons who are mentally ill;

36 (26) "Professional person" means a mental health professional and
37 shall also mean a physician, registered nurse, and such others as may

1 be defined by rules adopted by the secretary pursuant to the provisions
2 of this chapter;

3 (27) "Psychiatrist" means a person having a license as a physician
4 and surgeon in this state who has in addition completed three years of
5 graduate training in psychiatry in a program approved by the American
6 medical association or the American osteopathic association and is
7 certified or eligible to be certified by the American board of
8 psychiatry and neurology;

9 (28) "Psychologist" means a person who has been licensed as a
10 psychologist pursuant to chapter 18.83 RCW;

11 (29) "Public agency" means any evaluation and treatment facility or
12 institution, or hospital which is conducted for, or includes a
13 department or ward conducted for, the care and treatment of persons who
14 are mentally ill, if the agency is operated directly by, federal,
15 state, county, or municipal government, or a combination of such
16 governments;

17 (30) "Registration records" include all the records of the
18 department, regional support networks, treatment facilities, and other
19 persons providing services to the department, county departments, or
20 facilities which identify persons who are receiving or who at any time
21 have received services for mental illness;

22 (31) "Release" means legal termination of the commitment under the
23 provisions of this chapter;

24 (32) "Resource management services" has the meaning given in
25 chapter 71.24 RCW;

26 (33) "Secretary" means the secretary of the department of social
27 and health services, or his or her designee;

28 (34) "Social worker" means a person with a master's or further
29 advanced degree from an accredited school of social work or a degree
30 deemed equivalent under rules adopted by the secretary;

31 (35) "Treatment records" include registration and all other records
32 concerning persons who are receiving or who at any time have received
33 services for mental illness, which are maintained by the department, by
34 regional support networks and their staffs, and by treatment
35 facilities. Treatment records include mental health information
36 contained in a medical bill including but not limited to mental health
37 drugs, a mental health diagnosis, provider name, and dates of service
38 stemming from a medical service. Treatment records do not include

1 notes or records maintained for personal use by a person providing
2 treatment services for the department, regional support networks, or a
3 treatment facility if the notes or records are not available to others;
4 (36) "Violent act" means behavior that resulted in homicide,
5 attempted suicide, nonfatal injuries, or substantial damage to
6 property.

Passed by the Senate March 8, 2007.

Passed by the House April 11, 2007.

Approved by the Governor April 21, 2007.

Filed in Office of Secretary of State April 23, 2007.