

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 6265

Chapter 220, Laws of 2014

(partial veto)

63rd Legislature
2014 Regular Session

HEALTH CARE INFORMATION

EFFECTIVE DATE: 07/01/14 - Except Section 8, which becomes effective 04/04/14.

Passed by the Senate March 12, 2014
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 11, 2014
YEAS 65 NAYS 33

FRANK CHOPP

Speaker of the House of Representatives

Approved April 4, 2014, 10:19 a.m., with the exception of Section 16, which is vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6265** as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

April 4, 2014

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6265

AS AMENDED BY THE HOUSE

Passed Legislature - 2014 Regular Session

State of Washington 63rd Legislature 2014 Regular Session

By Senate Health Care (originally sponsored by Senators Frockt, Rivers, Conway, Becker, Kohl-Welles, Bailey, Cleveland, Ranker, Keiser, and Tom)

READ FIRST TIME 02/07/14.

1 AN ACT Relating to state and local agencies that obtain patient
2 health care information; amending RCW 70.02.290, 43.70.052, 43.71.075,
3 70.02.010, 70.02.020, 70.02.050, 70.02.200, 70.02.210, 70.02.230,
4 70.02.270, 70.02.280, 70.02.310, 70.02.340, 71.05.445, 70.02.030, and
5 70.02.045; providing an effective date; and declaring an emergency.

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

7 **Sec. 1.** RCW 70.02.290 and 2013 c 200 s 13 are each amended to read
8 as follows:

9 (1) All state or local agencies obtaining patient health care
10 information pursuant to RCW 70.02.050 and 70.02.200 through 70.02.240
11 that are not health care facilities or providers shall adopt rules
12 establishing their record acquisition, retention, destruction, and
13 security policies that are consistent with this chapter.

14 (2) State and local agencies that are not health care facilities or
15 providers that have not requested health care information and are not
16 authorized to receive this information under this chapter:

17 (a) Must not use or disclose this information unless permitted
18 under this chapter; and

1 (b) Must destroy the information in accordance with the policy
2 developed under subsection (1) of this section or return the
3 information to the entity that provided the information to the state or
4 local agency if the entity is a health care facility or provider and
5 subject to this chapter.

6 (3) A person who has health care information disclosed in violation
7 of subsection (2)(a) of this section, must be informed of the
8 disclosure by the state or local agency improperly making the
9 disclosure. State and local agencies that are not health care
10 facilities or providers must develop a policy to establish a reasonable
11 notification period and what information must be included in the
12 notice, including whether the name of the entity that originally
13 provided the information to the agency must be included.

14 (4) Rules or policies adopted under this section must be available
15 through each agency's web site.

16 **Sec. 2.** RCW 43.70.052 and 2012 c 98 s 1 are each amended to read
17 as follows:

18 (1) To promote the public interest consistent with the purposes of
19 chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, the
20 department shall continue to require hospitals to submit hospital
21 financial and patient discharge information, which shall be collected,
22 maintained, analyzed, and disseminated by the department. The
23 department shall, if deemed cost-effective and efficient, contract with
24 a private entity for any or all parts of data collection. Data
25 elements shall be reported in conformance with a uniform reporting
26 system established by the department. This includes data elements
27 identifying each hospital's revenues, expenses, contractual allowances,
28 charity care, bad debt, other income, total units of inpatient and
29 outpatient services, and other financial and employee compensation
30 information reasonably necessary to fulfill the purposes of this
31 section. Data elements relating to use of hospital services by
32 patients shall be the same as those currently compiled by hospitals
33 through inpatient discharge abstracts. The department shall encourage
34 and permit reporting by electronic transmission or hard copy as is
35 practical and economical to reporters.

36 (2) In identifying financial reporting requirements, the department
37 may require both annual reports and condensed quarterly reports from

1 hospitals, so as to achieve both accuracy and timeliness in reporting,
2 but shall craft such requirements with due regard of the data reporting
3 burdens of hospitals.

4 (3)(a) Beginning with compensation information for 2012, unless a
5 hospital is operated on a for-profit basis, the department shall
6 require a hospital licensed under chapter 70.41 RCW to annually submit
7 employee compensation information. To satisfy employee compensation
8 reporting requirements to the department, a hospital shall submit
9 information as directed in (a)(i) or (ii) of this subsection. A
10 hospital may determine whether to report under (a)(i) or (ii) of this
11 subsection for purposes of reporting.

12 (i) Within one hundred thirty-five days following the end of each
13 hospital's fiscal year, a nonprofit hospital shall file the appropriate
14 schedule of the federal internal revenue service form 990 that
15 identifies the employee compensation information with the department.
16 If the lead administrator responsible for the hospital or the lead
17 administrator's compensation is not identified on the schedule of form
18 990 that identifies the employee compensation information, the hospital
19 shall also submit the compensation information for the lead
20 administrator as directed by the department's form required in (b) of
21 this subsection.

22 (ii) Within one hundred thirty-five days following the end of each
23 hospital's calendar year, a hospital shall submit the names and
24 compensation of the five highest compensated employees of the hospital
25 who do not have any direct patient responsibilities. Compensation
26 information shall be reported on a calendar year basis for the calendar
27 year immediately preceding the reporting date. If those five highest
28 compensated employees do not include the lead administrator for the
29 hospital, compensation information for the lead administrator shall
30 also be submitted. Compensation information shall include base
31 compensation, bonus and incentive compensation, other payments that
32 qualify as reportable compensation, retirement and other deferred
33 compensation, and nontaxable benefits.

34 (b) To satisfy the reporting requirements of this subsection (3),
35 the department shall create a form and make it available no later than
36 August 1, 2012. To the greatest extent possible, the form shall follow
37 the format and reporting requirements of the portion of the internal

1 revenue service form 990 schedule relating to compensation information.
2 If the internal revenue service substantially revises its schedule, the
3 department shall update its form.

4 (4) The health care data collected, maintained, and studied by the
5 department shall only be available for retrieval in original or
6 processed form to public and private requestors pursuant to subsection
7 (7) of this section and shall be available within a reasonable period
8 of time after the date of request. The cost of retrieving data for
9 state officials and agencies shall be funded through the state general
10 appropriation. The cost of retrieving data for individuals and
11 organizations engaged in research or private use of data or studies
12 shall be funded by a fee schedule developed by the department that
13 reflects the direct cost of retrieving the data or study in the
14 requested form.

15 (5) The department shall, in consultation and collaboration with
16 the federally recognized tribes, urban or other Indian health service
17 organizations, and the federal area Indian health service, design,
18 develop, and maintain an American Indian-specific health data,
19 statistics information system. ~~((The department rules regarding~~
20 ~~confidentiality shall apply to safeguard the information from~~
21 ~~inappropriate use or release.))~~

22 (6) All persons subject to the data collection requirements of this
23 section shall comply with departmental requirements established by rule
24 in the acquisition of data.

25 (7) The department must maintain the confidentiality of patient
26 discharge data it collects under subsection (1) of this section.
27 Patient discharge data that includes direct and indirect identifiers is
28 not subject to public inspection and the department may only release
29 such data as allowed for in this section. Any agency that receives
30 patient discharge data under (a) or (b) of this subsection must also
31 maintain the confidentiality of the data and may not release the data
32 except as consistent with subsection (8)(b) of this section. The
33 department may release the data as follows:

34 (a) Data that includes direct and indirect patient identifiers, as
35 specifically defined in rule, may be released to:

36 (i) Federal, state, and local government agencies upon receipt of
37 a signed data use agreement with the department; and

1 (ii) Researchers with approval of the Washington state
2 institutional review board upon receipt of a signed confidentiality
3 agreement with the department.

4 (b) Data that does not contain direct patient identifiers but may
5 contain indirect patient identifiers may be released to agencies,
6 researchers, and other persons upon receipt of a signed data use
7 agreement with the department.

8 (c) Data that does not contain direct or indirect patient
9 identifiers may be released on request.

10 (8) Recipients of data under subsection (7)(a) and (b) of this
11 section must agree in a written data use agreement, at a minimum, to:

12 (a) Take steps to protect direct and indirect patient identifying
13 information as described in the data use agreement; and

14 (b) Not re-disclose the data except as authorized in their data use
15 agreement consistent with the purpose of the agreement.

16 (9) Recipients of data under subsection (7)(b) and (c) of this
17 section must not attempt to determine the identity of persons whose
18 information is included in the data set or use the data in any manner
19 that identifies individuals or their families.

20 (10) For the purposes of this section:

21 (a) "Direct patient identifier" means information that identifies
22 a patient; and

23 (b) "Indirect patient identifier" means information that may
24 identify a patient when combined with other information.

25 (11) The department must adopt rules necessary to carry out its
26 responsibilities under this section. The department must consider
27 national standards when adopting rules.

28 **Sec. 3.** RCW 43.71.075 and 2012 c 87 s 25 are each amended to read
29 as follows:

30 (1) A person or entity functioning as a navigator consistent with
31 the requirements of section 1311(i) of P.L. 111-148 of 2010, as
32 amended, shall not be considered soliciting or negotiating insurance as
33 stated under chapter 48.17 RCW.

34 (2)(a) A person or entity functioning as a navigator may only
35 request health care information that is relevant to the specific
36 assessment and recommendation of health plan options. Any health care

1 information received by a navigator may not be disclosed to any third
2 party that is not part of the enrollment process and must be destroyed
3 after enrollment has been completed.

4 (b) If a person's health care information is received and disclosed
5 to a third party in violation of (a) of this subsection, the navigator
6 must notify the person of the breach. The exchange must develop a
7 policy to establish a reasonable notification period and what
8 information must be included in the notice. This policy and
9 information on the exchange's confidentiality policies must be made
10 available on the exchange's web site.

11 (3) For the purposes of this section, "health care information" has
12 the meaning provided in RCW 70.02.010.

13 **Sec. 4.** RCW 70.02.010 and 2013 c 200 s 1 are each amended to read
14 as follows:

15 The definitions in this section apply throughout this chapter
16 unless the context clearly requires otherwise.

17 (1) "Admission" has the same meaning as in RCW 71.05.020.

18 (2) "Audit" means an assessment, evaluation, determination, or
19 investigation of a health care provider by a person not employed by or
20 affiliated with the provider to determine compliance with:

21 (a) Statutory, regulatory, fiscal, medical, or scientific
22 standards;

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

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

26 (3) "Commitment" has the same meaning as in RCW 71.05.020.

27 (4) "Custody" has the same meaning as in RCW 71.05.020.

28 (5) "Deidentified" means health information that does not identify
29 an individual and with respect to which there is no reasonable basis to
30 believe that the information can be used to identify an individual.

31 (6) "Department" means the department of social and health
32 services.

33 (7) "Designated mental health professional" has the same meaning as
34 in RCW 71.05.020 or 71.34.020, as applicable.

35 (8) "Detention" or "detain" has the same meaning as in RCW
36 71.05.020.

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

6 (10) "Discharge" has the same meaning as in RCW 71.05.020.

7 (11) "Evaluation and treatment facility" has the same meaning as in
8 RCW 71.05.020 or 71.34.020, as applicable.

9 (12) "Federal, state, or local law enforcement authorities" means
10 an 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 (13) "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 (14) "Health care" means any care, service, or procedure provided
20 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 (15) "Health care facility" means a hospital, clinic, nursing home,
25 laboratory, office, or similar place where a health care provider
26 provides health care to patients.

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

33 (17) "Health care operations" means any of the following activities
34 of a health care provider, health care facility, or third-party payor
35 to the extent that the activities are related to functions that make an
36 entity a health care provider, a health care facility, or a third-party
37 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 for the
10 benefit of the health care provider, health care facility, or third-
11 party payor.

12 (18) "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 (19) "Human immunodeficiency virus" or "HIV" has the same meaning
17 as in RCW 70.24.017.

18 (20) "Imminent" has the same meaning as in RCW 71.05.020.

19 (21) "Information and records related to mental health services"
20 means a type of health care information that relates to all information
21 and records(~~(, including mental health treatment records,)~~) compiled,
22 obtained, or maintained in the course of providing services by a mental
23 health service agency(~~(, as defined in this section)~~) or mental health
24 professional to persons who are receiving or have received services for
25 mental illness. The term includes mental health information contained
26 in a medical bill, registration records, as defined in RCW 71.05.020,
27 and all other records regarding the person maintained by the
28 department, by regional support networks and their staff, and by
29 treatment facilities. ((This may)) The term further includes documents
30 of legal proceedings under chapter 71.05, 71.34, or 10.77 RCW, or
31 somatic health care information. For health care information
32 maintained by a hospital as defined in RCW 70.41.020 or a health care
33 facility or health care provider that participates with a hospital in
34 an organized health care arrangement defined under federal law,
35 "information and records related to mental health services" is limited
36 to information and records of services provided by a mental health
37 professional or information and records of services created by a

1 hospital-operated community mental health program as defined in RCW
2 71.24.025(6). The term does not include psychotherapy notes.

3 (22) "Information and records related to sexually transmitted
4 diseases" means a type of health care information that relates to the
5 identity of any person upon whom an HIV antibody test or other sexually
6 transmitted infection test is performed, the results of such tests, and
7 any information relating to diagnosis of or treatment for any confirmed
8 sexually transmitted infections.

9 (23) "Institutional review board" means any board, committee, or
10 other group formally designated by an institution, or authorized under
11 federal or state law, to review, approve the initiation of, or conduct
12 periodic review of research programs to assure the protection of the
13 rights and welfare of human research subjects.

14 (24) "Legal counsel" has the same meaning as in RCW 71.05.020.

15 (25) "Local public health officer" has the same meaning as in RCW
16 70.24.017.

17 (26) "Maintain," as related to health care information, means to
18 hold, possess, preserve, retain, store, or control that information.

19 (27) "Mental health professional" (~~has the same meaning as in RCW~~
20 ~~71.05.020~~) means a psychiatrist, psychologist, psychiatric advanced
21 registered nurse practitioner, psychiatric nurse, or social worker, and
22 such other mental health professionals as may be defined by rules
23 adopted by the secretary of social and health services under chapter
24 71.05 RCW, whether that person works in a private or public setting.

25 (28) "Mental health service agency" means a public or private
26 agency that provides services to persons with mental disorders as
27 defined under RCW 71.05.020 or 71.34.020 and receives funding from
28 public sources. This includes evaluation and treatment facilities as
29 defined in RCW 71.34.020, community mental health service delivery
30 systems, or community mental health programs, as defined in RCW
31 71.24.025, and facilities conducting competency evaluations and
32 restoration under chapter 10.77 RCW.

33 (~~"Mental health treatment records" include registration~~
34 ~~records, as defined in RCW 71.05.020, and all other records concerning~~
35 ~~persons who are receiving or who at any time have received services for~~
36 ~~mental illness, which are maintained by the department, by regional~~
37 ~~support networks and their staff, and by treatment facilities. "Mental~~
38 ~~health treatment records" include mental health information contained~~

1 ~~in a medical bill including, but not limited to, mental health drugs,~~
2 ~~a mental health diagnosis, provider name, and dates of service stemming~~
3 ~~from a medical service. "Mental health treatment records" do not~~
4 ~~include notes or records maintained for personal use by a person~~
5 ~~providing treatment services for the department, regional support~~
6 ~~networks, or a treatment facility if the notes or records are not~~
7 ~~available to others.~~

8 ~~(30))~~ "Minor" has the same meaning as in RCW 71.34.020.

9 ~~((31))~~ (30) "Parent" has the same meaning as in RCW 71.34.020.

10 ~~((32))~~ (31) "Patient" means an individual who receives or has
11 received health care. The term includes a deceased individual who has
12 received health care.

13 ~~((33))~~ (32) "Payment" means:

14 (a) The activities undertaken by:

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

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

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

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

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

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

32 (iv) Review of health care services with respect to medical
33 necessity, coverage under a health plan, appropriateness of care, or
34 justification of charges;

35 (v) Utilization review activities, including precertification and
36 preauthorization of services, and concurrent and retrospective review
37 of services; and

1 (vi) Disclosure to consumer reporting agencies of any of the
2 following health care information relating to collection of premiums or
3 reimbursement:

4 (A) Name and address;

5 (B) Date of birth;

6 (C) Social security number;

7 (D) Payment history;

8 (E) Account number; and

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

11 ~~((34))~~ (33) "Person" means an individual, corporation, business
12 trust, estate, trust, partnership, association, joint venture,
13 government, governmental subdivision or agency, or any other legal or
14 commercial entity.

15 ~~((35))~~ (34) "Professional person" has the same meaning as in RCW
16 71.05.020.

17 ~~((36))~~ (35) "Psychiatric advanced registered nurse practitioner"
18 has the same meaning as in RCW 71.05.020.

19 ~~((37))~~ (36) "Psychotherapy notes" means notes recorded, in any
20 medium, by a mental health professional documenting or analyzing the
21 contents of conversations during a private counseling session or group,
22 joint, or family counseling session, and that are separated from the
23 rest of the individual's medical record. The term excludes mediation
24 prescription and monitoring, counseling session start and stop times,
25 the modalities and frequencies of treatment furnished, results of
26 clinical tests, and any summary of the following items: Diagnosis,
27 functional status, the treatment plan, symptoms, prognosis, and
28 progress to date.

29 (37) "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 (38) "Release" has the same meaning as in RCW 71.05.020.

4 (39) "Resource management services" has the same meaning as in RCW
5 71.05.020.

6 (40) "Serious violent offense" has the same meaning as in RCW
7 71.05.020.

8 (41) "Sexually transmitted infection" or "sexually transmitted
9 disease" has the same meaning as "sexually transmitted disease" in RCW
10 70.24.017.

11 (42) "Test for a sexually transmitted disease" has the same meaning
12 as in RCW 70.24.017.

13 (43) "Third-party payor" means an insurer regulated under Title 48
14 RCW authorized to transact business in this state or other
15 jurisdiction, including a health care service contractor, and health
16 maintenance organization; or an employee welfare benefit plan,
17 excluding fitness or wellness plans; or a state or federal health
18 benefit program.

19 (44) "Treatment" means the provision, coordination, or management
20 of health care and related services by one or more health care
21 providers or health care facilities, including the coordination or
22 management of health care by a health care provider or health care
23 facility with a third party; consultation between health care providers
24 or health care facilities relating to a patient; or the referral of a
25 patient for health care from one health care provider or health care
26 facility to another.

27 **Sec. 5.** RCW 70.02.020 and 2013 c 200 s 2 are each amended to read
28 as follows:

29 (1) Except as authorized elsewhere in this chapter, a health care
30 provider, an individual who assists a health care provider in the
31 delivery of health care, or an agent and employee of a health care
32 provider may not disclose health care information about a patient to
33 any other person without the patient's written authorization. A
34 disclosure made under a patient's written authorization must conform to
35 the authorization.

36 (2) (~~A patient has a right to receive an accounting of all~~)

1 ~~disclosures of mental health treatment records except disclosures made~~
2 ~~under RCW 71.05.425.~~

3 ~~(3))~~ A patient has a right to receive an accounting of disclosures
4 of health care information(~~(7 except for mental health treatment~~
5 ~~records which are addressed in subsection (2) of this section,~~) made
6 by a health care provider or a health care facility in the six years
7 before the date on which the accounting is requested, except for
8 disclosures:

- 9 (a) To carry out treatment, payment, and health care operations;
- 10 (b) To the patient of health care information about him or her;
- 11 (c) Incident to a use or disclosure that is otherwise permitted or
12 required;
- 13 (d) Pursuant to an authorization where the patient authorized the
14 disclosure of health care information about himself or herself;
- 15 (e) Of directory information;
- 16 (f) To persons involved in the patient's care;
- 17 (g) For national security or intelligence purposes if an accounting
18 of disclosures is not permitted by law;
- 19 (h) To correctional institutions or law enforcement officials if an
20 accounting of disclosures is not permitted by law; and
- 21 (i) Of a limited data set that excludes direct identifiers of the
22 patient or of relatives, employers, or household members of the
23 patient.

24 **Sec. 6.** RCW 70.02.050 and 2013 c 200 s 3 are each amended to read
25 as follows:

26 (1) A health care provider or health care facility may disclose
27 health care information, except for information and records related to
28 sexually transmitted diseases which are addressed in RCW 70.02.220,
29 about a patient without the patient's authorization to the extent a
30 recipient needs to know the information, if the disclosure is:

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

33 (b) To any other person who requires health care information for
34 health care education, or to provide planning, quality assurance, peer
35 review, or administrative, legal, financial, actuarial services to, or
36 other health care operations for or on behalf of the health care
37 provider or health care facility; or for assisting the health care

1 provider or health care facility in the delivery of health care and the
2 health care provider or health care facility reasonably believes that
3 the person:

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

6 (ii) Will take appropriate steps to protect the health care
7 information;

8 (c) To any person if the health care provider or health care
9 facility reasonably believes that disclosure will avoid or minimize an
10 imminent danger to the health or safety of the patient or any other
11 individual, however there is no obligation under this chapter on the
12 part of the provider or facility to so disclose. The fact of admission
13 to a provider for mental health services and all information and
14 records compiled, obtained, or maintained in the course of providing
15 mental health services to either voluntary or involuntary recipients of
16 services at public or private agencies is not subject to disclosure
17 unless disclosure is permitted in RCW 70.02.230; or

18 ~~(d) ((To an official of a penal or other custodial institution in
19 which the patient is detained; or~~

20 ~~(e)))~~ For payment, including information necessary for a recipient
21 to make a claim, or for a claim to be made on behalf of a recipient for
22 aid, insurance, or medical assistance to which he or she may be
23 entitled.

24 (2) A health care provider shall disclose health care information,
25 except for information and records related to sexually transmitted
26 diseases, unless otherwise authorized in RCW 70.02.220, about a patient
27 without the patient's authorization if the disclosure is:

28 (a) To federal, state, or local public health authorities, to the
29 extent the health care provider is required by law to report health
30 care information; when needed to determine compliance with state or
31 federal licensure, certification or registration rules or laws, or to
32 investigate unprofessional conduct or ability to practice with
33 reasonable skill and safety under chapter 18.130 RCW. Any health care
34 information obtained under this subsection is exempt from public
35 inspection and copying pursuant to chapter 42.56 RCW; or

36 (b) When needed to protect the public health.

1 **Sec. 7.** RCW 70.02.200 and 2013 c 200 s 4 are each amended to read
2 as follows:

3 (1) In addition to the disclosures authorized by RCW 70.02.050 and
4 70.02.210, a health care provider or health care facility may disclose
5 health care information, except for information and records related to
6 sexually transmitted diseases and information related to mental health
7 services which are addressed by RCW 70.02.220 through 70.02.260, about
8 a patient without the patient's authorization, to:

9 (a) Any other health care provider or health care facility
10 reasonably believed to have previously provided health care to the
11 patient, to the extent necessary to provide health care to the patient,
12 unless the patient has instructed the health care provider or health
13 care facility in writing not to make the disclosure;

14 (b) Immediate family members of the patient, including a patient's
15 state registered domestic partner, or any other individual with whom
16 the patient is known to have a close personal relationship, if made in
17 accordance with good medical or other professional practice, unless the
18 patient has instructed the health care provider or health care facility
19 in writing not to make the disclosure;

20 (c) A health care provider or health care facility who is the
21 successor in interest to the health care provider or health care
22 facility maintaining the health care information;

23 (d) A person who obtains information for purposes of an audit, if
24 that person agrees in writing to:

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

28 (ii) Not to disclose the information further, except to accomplish
29 the audit or report unlawful or improper conduct involving fraud in
30 payment for health care by a health care provider or patient, or other
31 unlawful conduct by the health care provider;

32 (e) Provide directory information, unless the patient has
33 instructed the health care provider or health care facility not to make
34 the disclosure;

35 (f) Fire, police, sheriff, or other public authority, that brought,
36 or caused to be brought, the patient to the health care facility or
37 health care provider if the disclosure is limited to the patient's
38 name, residence, sex, age, occupation, condition, diagnosis, estimated

1 or actual discharge date, or extent and location of injuries as
2 determined by a physician, and whether the patient was conscious when
3 admitted;

4 (g) Federal, state, or local law enforcement authorities and the
5 health care provider, health care facility, or third-party payor
6 believes in good faith that the health care information disclosed
7 constitutes evidence of criminal conduct that occurred on the premises
8 of the health care provider, health care facility, or third-party
9 payor; (~~and~~)

10 (h) Another health care provider, health care facility, or third-
11 party payor for the health care operations of the health care provider,
12 health care facility, or third-party payor that receives the
13 information, if each entity has or had a relationship with the patient
14 who is the subject of the health care information being requested, the
15 health care information pertains to such relationship, and the
16 disclosure is for the purposes described in RCW 70.02.010(17) (a) and
17 (b); and

18 (i) An official of a penal or other custodial institution in which
19 the patient is detained.

20 (2) In addition to the disclosures required by RCW 70.02.050 and
21 70.02.210, a health care provider shall disclose health care
22 information, except for information related to sexually transmitted
23 diseases and information related to mental health services which are
24 addressed by RCW 70.02.220 through 70.02.260, about a patient without
25 the patient's authorization if the disclosure is:

26 (a) To federal, state, or local law enforcement authorities to the
27 extent the health care provider is required by law;

28 (b) To federal, state, or local law enforcement authorities, upon
29 receipt of a written or oral request made to a nursing supervisor,
30 administrator, or designated privacy official, in a case in which the
31 patient is being treated or has been treated for a bullet wound,
32 gunshot wound, powder burn, or other injury arising from or caused by
33 the discharge of a firearm, or an injury caused by a knife, an ice
34 pick, or any other sharp or pointed instrument which federal, state, or
35 local law enforcement authorities reasonably believe to have been
36 intentionally inflicted upon a person, or a blunt force injury that
37 federal, state, or local law enforcement authorities reasonably believe
38 resulted from a criminal act, the following information, if known:

1 (i) The name of the patient;
2 (ii) The patient's residence;
3 (iii) The patient's sex;
4 (iv) The patient's age;
5 (v) The patient's condition;
6 (vi) The patient's diagnosis, or extent and location of injuries as
7 determined by a health care provider;
8 (vii) Whether the patient was conscious when admitted;
9 (viii) The name of the health care provider making the
10 determination in (b)(v), (vi), and (vii) of this subsection;
11 (ix) Whether the patient has been transferred to another facility;
12 and
13 (x) The patient's discharge time and date;
14 (c) Pursuant to compulsory process in accordance with RCW
15 70.02.060.

16 **Sec. 8.** RCW 70.02.210 and 2013 c 200 s 5 are each amended to read
17 as follows:

18 (1)(a) 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 for use in a research project that an
22 institutional review board has determined:

23 ~~((a))~~ (i) Is of sufficient importance to outweigh the intrusion
24 into the privacy of the patient that would result from the disclosure;

25 ~~((b))~~ (ii) Is impracticable without the use or disclosure of the
26 health care information in individually identifiable form;

27 ~~((c))~~ (iii) Contains reasonable safeguards to protect the
28 information from redisclosure;

29 ~~((d))~~ (iv) Contains reasonable safeguards to protect against
30 identifying, directly or indirectly, any patient in any report of the
31 research project; and

32 ~~((e))~~ (v) Contains procedures to remove or destroy at the
33 earliest opportunity, consistent with the purposes of the project,
34 information that would enable the patient to be identified, unless an
35 institutional review board authorizes retention of identifying
36 information for purposes of another research project.

1 (b) Disclosure under (a) of this subsection may include health care
2 information and records of treatment programs related to chemical
3 dependency addressed in chapter 70.96A RCW and as authorized by federal
4 law.

5 (2) In addition to the disclosures required by RCW 70.02.050 and
6 70.02.200, a health care provider or health care facility shall
7 disclose health care information about a patient without the patient's
8 authorization if:

9 (a) The disclosure is to county coroners and medical examiners for
10 the investigations of deaths;

11 (b) The disclosure is to a procurement organization or person to
12 whom a body part passes for the purpose of examination necessary to
13 assure the medical suitability of the body part; or

14 (c) The disclosure is to a person subject to the jurisdiction of
15 the federal food and drug administration in regards to a food and drug
16 administration-regulated product or activity for which that person has
17 responsibility for quality, safety, or effectiveness of activities.

18 **Sec. 9.** RCW 70.02.230 and 2013 c 200 s 7 are each amended to read
19 as follows:

20 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
21 70.96A.150, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260,
22 or pursuant to a valid authorization under RCW 70.02.030, the fact of
23 admission to a provider for mental health services and all information
24 and records compiled, obtained, or maintained in the course of
25 providing mental health services to either voluntary or involuntary
26 recipients of services at public or private agencies must be
27 confidential.

28 (2) Information and records related to mental health services,
29 other than those obtained through treatment under chapter 71.34 RCW,
30 may be disclosed only:

31 (a) In communications between qualified professional persons to
32 meet the requirements of chapter 71.05 RCW, in the provision of
33 services or appropriate referrals, or in the course of guardianship
34 proceedings if provided to a professional person:

35 (i) Employed by the facility;

36 (ii) Who has medical responsibility for the patient's care;

37 (iii) Who is a designated mental health professional;

1 (iv) Who is providing services under chapter 71.24 RCW;

2 (v) Who is employed by a state or local correctional facility where
3 the person is confined or supervised; or

4 (vi) Who is providing evaluation, treatment, or follow-up services
5 under chapter 10.77 RCW;

6 (b) When the communications regard the special needs of a patient
7 and the necessary circumstances giving rise to such needs and the
8 disclosure is made by a facility providing services to the operator of
9 a facility in which the patient resides or will reside;

10 (c)(i) When the person receiving services, or his or her guardian,
11 designates persons to whom information or records may be released, or
12 if the person is a minor, when his or her parents make such a
13 designation;

14 (ii) A public or private agency shall release to a person's next of
15 kin, attorney, personal representative, guardian, or conservator, if
16 any:

17 (A) The information that the person is presently a patient in the
18 facility or that the person is seriously physically ill;

19 (B) A statement evaluating the mental and physical condition of the
20 patient, and a statement of the probable duration of the patient's
21 confinement, if such information is requested by the next of kin,
22 attorney, personal representative, guardian, or conservator; and

23 (iii) Other information requested by the next of kin or attorney as
24 may be necessary to decide whether or not proceedings should be
25 instituted to appoint a guardian or conservator;

26 (d)(i) To the courts as necessary to the administration of chapter
27 71.05 RCW or to a court ordering an evaluation or treatment under
28 chapter 10.77 RCW solely for the purpose of preventing the entry of any
29 evaluation or treatment order that is inconsistent with any order
30 entered under chapter 71.05 RCW.

31 (ii) To a court or its designee in which a motion under chapter
32 10.77 RCW has been made for involuntary medication of a defendant for
33 the purpose of competency restoration.

34 (iii) Disclosure under this subsection is mandatory for the purpose
35 of the federal health insurance portability and accountability act;

36 (e)(i) When a mental health professional is requested by a
37 representative of a law enforcement or corrections agency, including a
38 police officer, sheriff, community corrections officer, a municipal

1 attorney, or prosecuting attorney to undertake an investigation or
2 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the
3 mental health professional shall, if requested to do so, advise the
4 representative in writing of the results of the investigation including
5 a statement of reasons for the decision to detain or release the person
6 investigated. The written report must be submitted within seventy-two
7 hours of the completion of the investigation or the request from the
8 law enforcement or corrections representative, whichever occurs later.

9 (ii) Disclosure under this subsection is mandatory for the purposes
10 of the federal health insurance portability and accountability act;

11 (f) To the attorney of the detained person;

12 (g) To the prosecuting attorney as necessary to carry out the
13 responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b),
14 and 71.05.335. The prosecutor must be provided access to records
15 regarding the committed person's treatment and prognosis, medication,
16 behavior problems, and other records relevant to the issue of whether
17 treatment less restrictive than inpatient treatment is in the best
18 interest of the committed person or others. Information must be
19 disclosed only after giving notice to the committed person and the
20 person's counsel;

21 (h)(i) To appropriate law enforcement agencies and to a person,
22 when the identity of the person is known to the public or private
23 agency, whose health and safety has been threatened, or who is known to
24 have been repeatedly harassed, by the patient. The person may
25 designate a representative to receive the disclosure. The disclosure
26 must be made by the professional person in charge of the public or
27 private agency or his or her designee and must include the dates of
28 commitment, admission, discharge, or release, authorized or
29 unauthorized absence from the agency's facility, and only any other
30 information that is pertinent to the threat or harassment. The agency
31 or its employees are not civilly liable for the decision to disclose or
32 not, so long as the decision was reached in good faith and without
33 gross negligence.

34 (ii) Disclosure under this subsection is mandatory for the purposes
35 of the federal health insurance portability and accountability act;

36 (i)(i) To appropriate corrections and law enforcement agencies all
37 necessary and relevant information in the event of a crisis or emergent
38 situation that poses a significant and imminent risk to the public.

1 The mental health service agency or its employees are not civilly
2 liable for the decision to disclose or not so long as the decision was
3 reached in good faith and without gross negligence.

4 (ii) Disclosure under this subsection is mandatory for the purposes
5 of the health insurance portability and accountability act;

6 (j) To the persons designated in RCW 71.05.425 for the purposes
7 described in those sections;

8 (k) Upon the death of a person. The person's next of kin, personal
9 representative, guardian, or conservator, if any, must be notified.
10 Next of kin who are of legal age and competent must be notified under
11 this section in the following order: Spouse, parents, children,
12 brothers and sisters, and other relatives according to the degree of
13 relation. Access to all records and information compiled, obtained, or
14 maintained in the course of providing services to a deceased patient
15 are governed by RCW 70.02.140;

16 (l) To mark headstones or otherwise memorialize patients interred
17 at state hospital cemeteries. The department of social and health
18 services shall make available the name, date of birth, and date of
19 death of patients buried in state hospital cemeteries fifty years after
20 the death of a patient;

21 (m) To law enforcement officers and to prosecuting attorneys as are
22 necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information
23 that may be released is limited as follows:

24 (i) Only the fact, place, and date of involuntary commitment, an
25 official copy of any order or orders of commitment, and an official
26 copy of any written or oral notice of ineligibility to possess a
27 firearm that was provided to the person pursuant to RCW 9.41.047(1),
28 must be disclosed upon request;

29 (ii) The law enforcement and prosecuting attorneys may only release
30 the information obtained to the person's attorney as required by court
31 rule and to a jury or judge, if a jury is waived, that presides over
32 any trial at which the person is charged with violating RCW
33 9.41.040(2)(a)(ii);

34 (iii) Disclosure under this subsection is mandatory for the
35 purposes of the federal health insurance portability and accountability
36 act;

37 (n) When a patient would otherwise be subject to the provisions of
38 this section and disclosure is necessary for the protection of the

1 patient or others due to his or her unauthorized disappearance from the
2 facility, and his or her whereabouts is unknown, notice of the
3 disappearance, along with relevant information, may be made to
4 relatives, the department of corrections when the person is under the
5 supervision of the department, and governmental law enforcement
6 agencies designated by the physician or psychiatric advanced registered
7 nurse practitioner in charge of the patient or the professional person
8 in charge of the facility, or his or her professional designee;

9 (o) Pursuant to lawful order of a court;

10 (p) To qualified staff members of the department, to the director
11 of regional support networks, to resource management services
12 responsible for serving a patient, or to service providers designated
13 by resource management services as necessary to determine the progress
14 and adequacy of treatment and to determine whether the person should be
15 transferred to a less restrictive or more appropriate treatment
16 modality or facility;

17 (q) Within the (~~treatment facility~~) mental health service agency
18 where the patient is receiving treatment, confidential information may
19 be disclosed to persons employed, serving in bona fide training
20 programs, or participating in supervised volunteer programs, at the
21 facility when it is necessary to perform their duties;

22 (r) Within the department as necessary to coordinate treatment for
23 mental illness, developmental disabilities, alcoholism, or drug abuse
24 of persons who are under the supervision of the department;

25 (s) To a licensed physician or psychiatric advanced registered
26 nurse practitioner who has determined that the life or health of the
27 person is in danger and that treatment without the information and
28 records related to mental health services (~~contained in the mental~~
29 ~~health treatment records~~) could be injurious to the patient's health.
30 Disclosure must be limited to the portions of the records necessary to
31 meet the medical emergency;

32 (t) Consistent with the requirements of the federal health
33 information portability and accountability act, to a licensed mental
34 health professional or a health care professional licensed under
35 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
36 providing care to a person, or to whom a person has been referred for
37 evaluation or treatment, to assure coordinated care and treatment of

1 that person. Psychotherapy notes(~~(as defined in 45 C.F.R. Sec.~~
2 ~~164.5017~~)) may not be released without authorization of the person who
3 is the subject of the request for release of information;

4 (u) To administrative and office support staff designated to obtain
5 medical records for those licensed professionals listed in (t) of this
6 subsection;

7 (v) To a facility that is to receive a person who is involuntarily
8 committed under chapter 71.05 RCW, or upon transfer of the person from
9 one evaluation and treatment facility to another. The release of
10 records under this subsection is limited to the (~~mental health~~
11 ~~treatment records~~) information and records related to mental health
12 services required by law, a record or summary of all somatic
13 treatments, and a discharge summary. The discharge summary may include
14 a statement of the patient's problem, the treatment goals, the type of
15 treatment which has been provided, and recommendation for future
16 treatment, but may not include the patient's complete treatment record;

17 (w) 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 (x) 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 must
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 (y) To all current treating providers of the patient with
4 prescriptive authority who have written a prescription for the patient
5 within the last twelve months. For purposes of coordinating health
6 care, the department may release without written authorization of the
7 patient, information acquired for billing and collection purposes as
8 described in RCW 70.02.050(1)((+e)) (d). The department shall notify
9 the patient that billing and collection information has been released
10 to named providers, and provide the substance of the information
11 released and the dates of such release. The department may not release
12 counseling, inpatient psychiatric hospitalization, or drug and alcohol
13 treatment information without a signed written release from the client;

14 (z)(i) To the secretary of social and health services for either
15 program evaluation or research, or both so long as the secretary adopts
16 rules for the conduct of the evaluation or research, or both. Such
17 rules must include, but need not be limited to, the requirement that
18 all evaluators and researchers sign an oath of confidentiality
19 substantially as follows:

20 "As a condition of conducting evaluation or research concerning
21 persons who have received services from (fill in the facility, agency,
22 or person) I,, agree not to divulge, publish, or otherwise
23 make known to unauthorized persons or the public any information
24 obtained in the course of such evaluation or research regarding persons
25 who have received services such that the person who received such
26 services is identifiable.

27 I recognize that unauthorized release of confidential information
28 may subject me to civil liability under the provisions of state law.

29 /s/"

30 (ii) Nothing in this chapter may be construed to prohibit the
31 compilation and publication of statistical data for use by government
32 or researchers under standards, including standards to assure
33 maintenance of confidentiality, set forth by the secretary.

34 (3) Whenever federal law or federal regulations restrict the
35 release of information contained in the ((treatment — records))
36 information and records related to mental health services of any
37 patient who receives treatment for chemical dependency, the department

1 may restrict the release of the information as necessary to comply with
2 federal law and regulations.

3 (4) Civil liability and immunity for the release of information
4 about a particular person who is committed to the department of social
5 and health services under RCW 71.05.280(3) and 71.05.320(3)(c) after
6 dismissal of a sex offense as defined in RCW 9.94A.030, is governed by
7 RCW 4.24.550.

8 (5) The fact of admission to a provider of mental health services,
9 as well as all records, files, evidence, findings, or orders made,
10 prepared, collected, or maintained pursuant to chapter 71.05 RCW are
11 not admissible as evidence in any legal proceeding outside that chapter
12 without the written authorization of the person who was the subject of
13 the proceeding except as provided in RCW 70.02.260, in a subsequent
14 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
15 or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter
16 10.77 RCW due to incompetency to stand trial, in a civil commitment
17 proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor,
18 a guardianship or dependency proceeding. The records and files
19 maintained in any court proceeding pursuant to chapter 71.05 RCW must
20 be confidential and available subsequent to such proceedings only to
21 the person who was the subject of the proceeding or his or her
22 attorney. In addition, the court may order the subsequent release or
23 use of such records or files only upon good cause shown if the court
24 finds that appropriate safeguards for strict confidentiality are and
25 will be maintained.

26 (6)(a) Except as provided in RCW 4.24.550, any person may bring an
27 action against an individual who has willfully released confidential
28 information or records concerning him or her in violation of the
29 provisions of this section, for the greater of the following amounts:

30 (i) One thousand dollars; or

31 (ii) Three times the amount of actual damages sustained, if any.

32 (b) It is not a prerequisite to recovery under this subsection that
33 the plaintiff suffered or was threatened with special, as contrasted
34 with general, damages.

35 (c) Any person may bring an action to enjoin the release of
36 confidential information or records concerning him or her or his or her
37 ward, in violation of the provisions of this section, and may in the
38 same action seek damages as provided in this subsection.

1 (d) The court may award to the plaintiff, should he or she prevail
2 in any action authorized by this subsection, reasonable attorney fees
3 in addition to those otherwise provided by law.

4 (e) If an action is brought under this subsection, no action may be
5 brought under RCW 70.02.170.

6 **Sec. 10.** RCW 70.02.270 and 2013 c 200 s 11 are each amended to
7 read as follows:

8 (1) No person who receives health care information for health care
9 education, or to provide planning, quality assurance, peer review, or
10 administrative, legal, financial, or actuarial services, or other
11 health care operations for or on behalf of a health care provider or
12 health care facility, may use or disclose any health care information
13 received from the health care provider or health care facility in any
14 manner that (~~is inconsistent with the duties of the health care~~
15 ~~provider or health care facility under this chapter~~) would violate the
16 requirements of this chapter if performed by the health care provider
17 or health care facility.

18 (2) A health care provider or health care facility that has a
19 contractual relationship with a person to provide services described
20 under subsection (1) of this section (~~must~~) may terminate the
21 contractual relationship with the person if the health care provider or
22 health care facility learns that the person has engaged in a pattern of
23 activity that violates the person's duties under subsection (1) of this
24 section, unless the person took reasonable steps to correct the breach
25 of confidentiality or has discontinued the violating activity.

26 **Sec. 11.** RCW 70.02.280 and 2013 c 200 s 12 are each amended to
27 read as follows:

28 A health care provider, health care facility, and their assistants,
29 employees, agents, and contractors may not:

30 (1) Use or disclose health care information for marketing or fund-
31 raising purposes, unless permitted by federal law; or

32 (~~(2) ((Sell health care information to a third party, except in a~~
33 ~~form that is deidentified and aggregated; or~~

34 ~~(3))~~) Sell health care information to a third party, except (~~for~~
35 ~~the following purposes~~):

36 (a) For purposes of treatment or payment;

- 1 (b) For purposes of sale, transfer, merger, or consolidation of a
2 business;
- 3 (c) For purposes of remuneration to a third party for services;
- 4 (d) As disclosures are required by law;
- 5 (e) For purposes of providing access to or accounting of
6 disclosures to an individual;
- 7 (f) For public health purposes;
- 8 (g) For research;
- 9 (h) With an individual's authorization;
- 10 (i) Where a reasonable cost-based fee is paid to prepare and
11 transmit health information, where authority to disclose the
12 information is provided in this chapter; or
- 13 (j) In a format that is deidentified and aggregated.

14 **Sec. 12.** RCW 70.02.310 and 2013 c 200 s 15 are each amended to
15 read as follows:

16 (1) Resource management services shall establish procedures to
17 provide reasonable and timely access to information and records related
18 to mental health services for an individual (~~mental health treatment~~
19 ~~records~~). However, access may not be denied at any time to records of
20 all medications and somatic treatments received by the person.

21 (2) Following discharge, a person who has received mental health
22 services has a right to a complete record of all medications and
23 somatic treatments prescribed during evaluation, admission, or
24 commitment and to a copy of the discharge summary prepared at the time
25 of his or her discharge. A reasonable and uniform charge for
26 reproduction may be assessed.

27 (3) (~~Mental health treatment records~~) Information and records
28 related to mental health services may be modified prior to inspection
29 to protect the confidentiality of other patients or the names of any
30 other persons referred to in the record who gave information on the
31 condition that his or her identity remain confidential. Entire
32 documents may not be withheld to protect such confidentiality.

33 (4) At the time of discharge resource management services shall
34 inform all persons who have received mental health services of their
35 rights as provided in this chapter and RCW 71.05.620.

1 advocates for persons with mental illness, shall adopt rules to
2 implement the provisions of this section related to the type and scope
3 of information to be released. These rules shall:

4 (a) Enhance and facilitate the ability of the department of
5 corrections to carry out its responsibility of planning and ensuring
6 community protection with respect to persons subject to sentencing
7 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
8 disclosing information of persons who received mental health services
9 as a minor; and

10 (b) Establish requirements for the notification of persons under
11 the supervision of the department of corrections regarding the
12 provisions of this section.

13 (4) The information received by the department of corrections under
14 this section shall remain confidential and subject to the limitations
15 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW
16 72.09.585.

17 (5) No mental health service provider or individual employed by a
18 mental health service provider shall be held responsible for
19 information released to or used by the department of corrections under
20 the provisions of this section or rules adopted under this section.

21 (6) Whenever federal law or federal regulations restrict the
22 release of information (~~contained in the treatment records of~~) and
23 records related to mental health services for any patient who receives
24 treatment for alcoholism or drug dependency, the release of the
25 information may be restricted as necessary to comply with federal law
26 and regulations.

27 (7) This section does not modify the terms and conditions of
28 disclosure of information related to sexually transmitted diseases
29 under chapter 70.24 RCW.

30 (8) The department shall, subject to available resources,
31 electronically, or by the most cost-effective means available, provide
32 the department of corrections with the names, last dates of services,
33 and addresses of specific regional support networks and mental health
34 service providers that delivered mental health services to a person
35 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
36 the departments.

1 **Sec. 15.** RCW 70.02.030 and 2005 c 468 s 3 are each amended to read
2 as follows:

3 (1) A patient may authorize a health care provider or health care
4 facility to disclose the patient's health care information. A health
5 care provider or health care facility shall honor an authorization and,
6 if requested, provide a copy of the recorded health care information
7 unless the health care provider or health care facility denies the
8 patient access to health care information under RCW 70.02.090.

9 (2) A health care provider or health care facility may charge a
10 reasonable fee for providing the health care information and is not
11 required to honor an authorization until the fee is paid.

12 (3) To be valid, a disclosure authorization to a health care
13 provider or health care facility shall:

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

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

16 (c) Identify the name and institutional affiliation of the person
17 or class of persons to whom the information is to be disclosed;

18 (d) Identify the provider or class of providers who are to make the
19 disclosure;

20 (e) Identify the patient; and

21 (f) Contain an expiration date or an expiration event that relates
22 to the patient or the purpose of the use or disclosure.

23 (4) Unless disclosure without authorization is otherwise permitted
24 under RCW 70.02.050 or the federal health insurance portability and
25 accountability act of 1996 and its implementing regulations, an
26 authorization may permit the disclosure of health care information to
27 a class of persons that includes:

28 (a) Researchers if the health care provider or health care facility
29 obtains the informed consent for the use of the patient's health care
30 information for research purposes; or

31 (b) Third-party payors if the information is only disclosed for
32 payment purposes.

33 (5) Except as provided by this chapter, the signing of an
34 authorization by a patient is not a waiver of any rights a patient has
35 under other statutes, the rules of evidence, or common law.

36 (6) When an authorization permits the disclosure of health care
37 information to a financial institution or an employer of the patient
38 for purposes other than payment, the authorization as it pertains to

1 those disclosures shall expire ((~~ninety-days~~)) one year after the
2 signing of the authorization, unless the authorization is renewed by
3 the patient.

4 (7) A health care provider or health care facility shall retain the
5 original or a copy of each authorization or revocation in conjunction
6 with any health care information from which disclosures are made.

7 (8) Where the patient is under the supervision of the department of
8 corrections, an authorization signed pursuant to this section for
9 health care information related to mental health or drug or alcohol
10 treatment expires at the end of the term of supervision, unless the
11 patient is part of a treatment program that requires the continued
12 exchange of information until the end of the period of treatment.

13 ***Sec. 16. RCW 70.02.045 and 2000 c 5 s 2 are each amended to read**
14 **as follows:**

15 ***Third-party payors shall not release health care information***
16 ***disclosed under this chapter, except ((to the extent that health care***
17 ***providers are authorized to do so under RCW 70.02.050)) as permitted***
18 ***under this chapter.***

**Sec. 16 was vetoed. See message at end of chapter.*

19 NEW SECTION. **Sec. 17.** Sections 1 through 7 and 9 through 16 of
20 this act take effect July 1, 2014.

21 NEW SECTION. **Sec. 18.** Section 8 of this act is necessary for the
22 immediate preservation of the public peace, health, or safety, or
23 support of the state government and its existing public institutions,
24 and takes effect immediately.

Passed by the Senate March 12, 2014.
Passed by the House March 11, 2014.
Approved by the Governor April 4, 2014, with the exception of
certain items that were vetoed.
Filed in Office of Secretary of State April 4, 2014.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 16,
Engrossed Substitute Senate Bill No. 6265 entitled:

"AN ACT Relating to state and local agencies that obtain patient
health care information."

This bill is the result of a multi-year effort by stakeholders and
legislators to consolidate and strengthen patient privacy protections
and standards. It includes a Department of Health request bill for
hospital data that are important for research and health improvement.

The measure establishes protocols for entities not covered by the
Health Insurance Portability and Accountability Act -- popularly

known as HIPAA -- if they inadvertently receive patient health information **and** prohibits them from disclosing the information. Among a number of provisions, the measure provides exceptions to the right of a patient to receive an accounting of all disclosures of information and records related to *mental* health that are the same as the exceptions for *general* health care information.

However, I am vetoing Section 16 due to an error that would create an ambiguity in law concerning how third-party payors share health care data necessary to process claim payments. The intent of the Legislature was clearly to apply the same exception process for third-party payors as is available under chapter 70.02 RCW for health care providers, but Section 16 inadvertently deletes "health care providers," which is a critical cross-reference term to apply the exception. The ambiguity could be disruptive for many self-insured employers and their third-party payors.

I am grateful to Sen. Frockt and Rep. Cody for their outstanding work on this bill.

For these reasons I have vetoed Section 16 of Engrossed Substitute Senate Bill No. 6265.

With the exception of Section 16, Engrossed Substitute Senate Bill No. 6265 is approved."