
HOUSE BILL 2228

State of Washington 64th Legislature 2015 Regular Session

By Representatives Sawyer, Cody, Van De Wege, and Riccelli

Read first time 04/15/15. Referred to Committee on Appropriations.

1 AN ACT Relating to fees for health information; amending RCW
2 70.02.010; creating a new section; and repealing 2014 c 225 s 70.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

5 (a) Both federal and state law grant an individual and his or her
6 legal representative access to the individual's health information;

7 (b) Both federal and state law require that any fee charged for
8 providing the information be reasonable;

9 (c) Federal law limits the fee that may be charged to include
10 only the cost of:

11 (i) Labor for copying the information;

12 (ii) Supplies for creating a paper copy or electronic media;

13 (iii) Postage; and

14 (iv) Preparing an explanation or summary of the information; and

15 (d) Washington law regarding fees for health information is
16 inconsistent with federal law and enforcement practices.

17 (2) The legislature therefore intends to amend the state
18 definition of "reasonable fee" to be consistent with federal law and
19 enforcement practices.

1 **Sec. 2.** RCW 70.02.010 and 2014 c 220 s 4 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

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

9 (a) Statutory, regulatory, fiscal, medical, or scientific
10 standards;

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

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

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

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

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

20 (6) "Department" means the department of social and health
21 services.

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

24 (8) "Detention" or "detain" has the same meaning as in RCW
25 71.05.020.

26 (9) "Directory information" means information disclosing the
27 presence, and for the purpose of identification, the name, location
28 within a health care facility, and the general health condition of a
29 particular patient who is a patient in a health care facility or who
30 is currently receiving emergency health care in a health care
31 facility.

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

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

35 (12) "Federal, state, or local law enforcement authorities" means
36 an officer of any agency or authority in the United States, a state,
37 a tribe, a territory, or a political subdivision of a state, a tribe,
38 or a territory who is empowered by law to: (a) Investigate or conduct
39 an official inquiry into a potential criminal violation of law; or

1 (b) prosecute or otherwise conduct a criminal proceeding arising from
2 an alleged violation of law.

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

6 (14) "Health care" means any care, service, or procedure provided
7 by a health care provider:

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

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

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

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

21 (17) "Health care operations" means any of the following
22 activities of a health care provider, health care facility, or third-
23 party payor to the extent that the activities are related to
24 functions that make an entity a health care provider, a health care
25 facility, or a third-party payor:

26 (a) Conducting: Quality assessment and improvement activities,
27 including outcomes evaluation and development of clinical guidelines,
28 if the obtaining of generalizable knowledge is not the primary
29 purpose of any studies resulting from such activities; population-
30 based activities relating to improving health or reducing health care
31 costs, protocol development, case management and care coordination,
32 contacting of health care providers and patients with information
33 about treatment alternatives; and related functions that do not
34 include treatment;

35 (b) Reviewing the competence or qualifications of health care
36 professionals, evaluating practitioner and provider performance and
37 third-party payor performance, conducting training programs in which
38 students, trainees, or practitioners in areas of health care learn
39 under supervision to practice or improve their skills as health care

1 providers, training of nonhealth care professionals, accreditation,
2 certification, licensing, or credentialing activities;

3 (c) Underwriting, premium rating, and other activities relating
4 to the creation, renewal, or replacement of a contract of health
5 insurance or health benefits, and ceding, securing, or placing a
6 contract for reinsurance of risk relating to claims for health care,
7 including stop-loss insurance and excess of loss insurance, if any
8 applicable legal requirements are met;

9 (d) Conducting or arranging for medical review, legal services,
10 and auditing functions, including fraud and abuse detection and
11 compliance programs;

12 (e) Business planning and development, such as conducting cost-
13 management and planning-related analyses related to managing and
14 operating the health care facility or third-party payor, including
15 formulary development and administration, development, or improvement
16 of methods of payment or coverage policies; and

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

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

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

26 (iii) Resolution of internal grievances;

27 (iv) The sale, transfer, merger, or consolidation of all or part
28 of a health care provider, health care facility, or third-party payor
29 with another health care provider, health care facility, or third-
30 party payor or an entity that following such activity will become a
31 health care provider, health care facility, or third-party payor, and
32 due diligence related to such activity; and

33 (v) Consistent with applicable legal requirements, creating
34 deidentified health care information or a limited dataset for the
35 benefit of the health care provider, health care facility, or third-
36 party payor.

37 (18) "Health care provider" means a person who is licensed,
38 certified, registered, or otherwise authorized by the law of this
39 state to provide health care in the ordinary course of business or
40 practice of a profession.

1 (19) "Human immunodeficiency virus" or "HIV" has the same meaning
2 as in RCW 70.24.017.

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

4 (21) "Information and records related to mental health services"
5 means a type of health care information that relates to all
6 information and records compiled, obtained, or maintained in the
7 course of providing services by a mental health service agency or
8 mental health professional to persons who are receiving or have
9 received services for mental illness. The term includes mental health
10 information contained in a medical bill, registration records, as
11 defined in RCW 71.05.020, and all other records regarding the person
12 maintained by the department, by regional support networks and their
13 staff, and by treatment facilities. The term further includes
14 documents of legal proceedings under chapter 71.05, 71.34, or 10.77
15 RCW, or somatic health care information. For health care information
16 maintained by a hospital as defined in RCW 70.41.020 or a health care
17 facility or health care provider that participates with a hospital in
18 an organized health care arrangement defined under federal law,
19 "information and records related to mental health services" is
20 limited to information and records of services provided by a mental
21 health professional or information and records of services created by
22 a hospital-operated community mental health program as defined in RCW
23 71.24.025(6). The term does not include psychotherapy notes.

24 (22) "Information and records related to sexually transmitted
25 diseases" means a type of health care information that relates to the
26 identity of any person upon whom an HIV antibody test or other
27 sexually transmitted infection test is performed, the results of such
28 tests, and any information relating to diagnosis of or treatment for
29 any confirmed sexually transmitted infections.

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

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

36 (25) "Local public health officer" has the same meaning as in RCW
37 70.24.017.

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

1 (27) "Mental health professional" means a psychiatrist,
2 psychologist, psychiatric advanced registered nurse practitioner,
3 psychiatric nurse, or social worker, and such other mental health
4 professionals as may be defined by rules adopted by the secretary of
5 social and health services under chapter 71.05 RCW, whether that
6 person works in a private or public setting.

7 (28) "Mental health service agency" means a public or private
8 agency that provides services to persons with mental disorders as
9 defined under RCW 71.05.020 or 71.34.020 and receives funding from
10 public sources. This includes evaluation and treatment facilities as
11 defined in RCW 71.34.020, community mental health service delivery
12 systems, or community mental health programs, as defined in RCW
13 71.24.025, and facilities conducting competency evaluations and
14 restoration under chapter 10.77 RCW.

15 (29) "Minor" has the same meaning as in RCW 71.34.020.

16 (30) "Parent" has the same meaning as in RCW 71.34.020.

17 (31) "Patient" means an individual who receives or has received
18 health care. The term includes a deceased individual who has received
19 health care.

20 (32) "Payment" means:

21 (a) The activities undertaken by:

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

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

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

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

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

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

1 (iv) Review of health care services with respect to medical
2 necessity, coverage under a health plan, appropriateness of care, or
3 justification of charges;

4 (v) Utilization review activities, including precertification and
5 preauthorization of services, and concurrent and retrospective review
6 of services; and

7 (vi) Disclosure to consumer reporting agencies of any of the
8 following health care information relating to collection of premiums
9 or reimbursement:

10 (A) Name and address;

11 (B) Date of birth;

12 (C) Social security number;

13 (D) Payment history;

14 (E) Account number; and

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

17 (33) "Person" means an individual, corporation, business trust,
18 estate, trust, partnership, association, joint venture, government,
19 governmental subdivision or agency, or any other legal or commercial
20 entity.

21 (34) "Professional person" has the same meaning as in RCW
22 71.05.020.

23 (35) "Psychiatric advanced registered nurse practitioner" has the
24 same meaning as in RCW 71.05.020.

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

35 (37)(a) "Reasonable fee" means the charges for duplicating or
36 searching the record(~~(, but)~~).

37 (i) For hard copy records requested by a patient or his or her
38 legal representative, no fee may be charged for the first ten pages
39 and the fee may not exceed thirty-eight cents per page for all other

1 pages over ten. No clerical fee for searching and handling may be
2 charged.

3 (ii) For electronic copies of records requested by a patient or
4 his or her legal representative, the fee may not exceed a total of
5 six dollars and fifty cents.

6 (iii) For all other requestors, the fee shall not exceed sixty-
7 five cents per page for the first thirty pages and fifty cents per
8 page for all other pages. In addition, a clerical fee for searching
9 and handling may be charged not to exceed fifteen dollars. However,
10 where editing of records by a health care provider is required by
11 statute and is done by the provider personally, the fee may be the
12 usual and customary charge for a basic office visit.

13 (b) These amounts shall be adjusted biennially in accordance with
14 changes in the consumer price index, all consumers, for Seattle-
15 Tacoma metropolitan statistical area as determined by the secretary
16 of health. ((However, where editing of records by a health care
17 provider is required by statute and is done by the provider
18 personally, the fee may be the usual and customary charge for a basic
19 office visit.))

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

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

23 (40) "Serious violent offense" has the same meaning as in RCW
24 71.05.020.

25 (41) "Sexually transmitted infection" or "sexually transmitted
26 disease" has the same meaning as "sexually transmitted disease" in
27 RCW 70.24.017.

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

30 (43) "Third-party payor" means an insurer regulated under Title
31 48 RCW authorized to transact business in this state or other
32 jurisdiction, including a health care service contractor, and health
33 maintenance organization; or an employee welfare benefit plan,
34 excluding fitness or wellness plans; or a state or federal health
35 benefit program.

36 (44) "Treatment" means the provision, coordination, or management
37 of health care and related services by one or more health care
38 providers or health care facilities, including the coordination or
39 management of health care by a health care provider or health care
40 facility with a third party; consultation between health care

1 providers or health care facilities relating to a patient; or the
2 referral of a patient for health care from one health care provider
3 or health care facility to another.

4 NEW SECTION. **Sec. 3.** 2014 c 225 s 70 is repealed.

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