

FINAL BILL REPORT

HB 2416

C 81 L 20
Synopsis as Enacted

Brief Description: Concerning disclosures of information and records related to forensic mental health services.

Sponsors: Representatives Kilduff, Chopp, Leavitt, Macri, Cody, Stonier, Ormsby and Pollet.

House Committee on Health Care & Wellness

Senate Committee on Health & Long Term Care

Senate Committee on Behavioral Health Subcommittee to Health & Long Term Care

Background:

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

In Washington, the Uniform Health Care Information Act (UHCIA) governs the disclosure of health care information by health care providers and their agents or employees. The UHCIA provides that a health care provider may not disclose health care information about a patient unless there is a statutory exception or a written authorization by the patient. Some exceptions include disclosures for: the provision of health care; quality improvement, legal, actuarial, and administrative services; research purposes; directory information; public health and law enforcement activities as required by law; and judicial proceedings.

Under both state and federal law, a health care provider or health care facility may disclose health care information without a patient's authorization if specific conditions are met and the disclosure is:

- to a family member of the patient, a close friend of the patient, or another person identified by the patient, if the disclosure is directly related to the recipient's involvement with the patient's health care or payment related to the patient's health care; or

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- for the purpose of notifying, including identifying or locating, a family member, a personal representative, or another person responsible for the care of the patient, of the patient's location, general condition, or death.

Under this exception, disclosures of information related to mental health services may include the patient's diagnosis and treatment recommendations; safety concerns related to the patient; information about available resources, such as case management and support; and the process to ensure safe transitions to different levels of care.

State law protects records regarding the medical, expert, and professional care and treatment provided to persons who have been involuntarily detained, hospitalized, or committed pursuant to competency proceedings or upon having been determined to be not guilty by reason of insanity. Disclosures of the records may only be made to the committed person, the person's attorney, the person's personal physician, the supervising community corrections officer, the prosecuting attorney, the court, the protection and advocacy agency, or other experts or professionals who demonstrate a need for the records. There is an additional disclosure exception for offenders who are acquitted of sex offenses and then involuntarily committed after having been found not guilty by reason of insanity. The UHCIA includes additional permitted disclosure of these records for activities such as providing evaluation and treatment services or considering motions for the use of involuntary medication.

Summary:

Health care information contained in forensic mental health records and reports may be disclosed as permitted by the Uniform Health Care Information Act. It is specified that information related to mental health services is included in the authority to disclose health care information to persons with a close relationship to the patient and must be limited to the minimum necessary to accomplish the purpose of the disclosure.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: June 11, 2020