

ESSB 6106 - H COMM AMD  
By Committee on Health Care

ADOPTED 02/28/2006

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

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

14 (a) Statutory, regulatory, fiscal, medical, or scientific  
15 standards;

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

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

19 (2) "Directory information" means information disclosing the  
20 presence, and for the purpose of identification, the name, location  
21 within a health care facility, and the general health condition of a  
22 particular patient who is a patient in a health care facility or who is  
23 currently receiving emergency health care in a health care facility.

24 (3) "Federal, state, or local law enforcement authorities" means an  
25 officer of any agency or authority in the United States, a state, a  
26 tribe, a territory, or a political subdivision of a state, a tribe, or  
27 a territory who is empowered by law to: (a) Investigate or conduct an  
28 official inquiry into a potential criminal violation of law; or (b)

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

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

6 ((+4)) (5) "Health care" means any care, service, or procedure  
7 provided by a health care provider:

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

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

11 ((+5)) (6) "Health care facility" means a hospital, clinic,  
12 nursing home, laboratory, office, or similar place where a health care  
13 provider provides health care to patients.

14 ((+6)) (7) "Health care information" means any information,  
15 whether 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 care  
20 information.

21 ((+7)) (8) "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 functions  
24 that make an entity a health care provider, a health care facility, or  
25 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 purpose  
29 of any studies resulting from such activities; population-based  
30 activities relating to improving health or reducing health care costs,  
31 protocol development, case management and care coordination, contacting  
32 of health care providers and patients with information about treatment  
33 alternatives; and related functions that do not include treatment;

34 (b) Reviewing the competence or qualifications of health care  
35 professionals, evaluating practitioner and provider performance and  
36 third-party payor performance, conducting training programs in which  
37 students, trainees, or practitioners in areas of health care learn

1 under supervision to practice or improve their skills as health care  
2 providers, training of nonhealth care professionals, accreditation,  
3 certification, licensing, or credentialing activities;

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

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

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

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

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

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

27 (iii) Resolution of internal grievances;

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

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

1       (~~(8)~~) (9) "Health care provider" means a person who is licensed,  
2 certified, registered, or otherwise authorized by the law of this state  
3 to provide health care in the ordinary course of business or practice  
4 of a profession.

5       (~~(9)~~) (10) "Institutional review board" means any board,  
6 committee, or other group formally designated by an institution, or  
7 authorized under federal or state law, to review, approve the  
8 initiation of, or conduct periodic review of research programs to  
9 assure the protection of the rights and welfare of human research  
10 subjects.

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

14       (~~(11)~~) (12) "Patient" means an individual who receives or has  
15 received health care. The term includes a deceased individual who has  
16 received health care.

17       (~~(12)~~) (13) "Payment" means:

18       (a) The activities undertaken by:

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

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

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

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

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

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

36       (iv) Review of health care services with respect to medical  
37 necessity, coverage under a health plan, appropriateness of care, or  
38 justification of charges;

1 (v) Utilization review activities, including precertification and  
2 preauthorization of services, and concurrent and retrospective review  
3 of services; and

4 (vi) Disclosure to consumer reporting agencies of any of the  
5 following health care information relating to collection of premiums or  
6 reimbursement:

7 (A) Name and address;

8 (B) Date of birth;

9 (C) Social security number;

10 (D) Payment history;

11 (E) Account number; and

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

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

18 (~~(14)~~) (15) "Reasonable fee" means the charges for duplicating or  
19 searching the record, but shall not exceed sixty-five cents per page  
20 for the first thirty pages and fifty cents per page for all other  
21 pages. In addition, a clerical fee for searching and handling may be  
22 charged not to exceed fifteen dollars. These amounts shall be adjusted  
23 biennially in accordance with changes in the consumer price index, all  
24 consumers, for Seattle-Tacoma metropolitan statistical area as  
25 determined by the secretary of health. However, where editing of  
26 records by a health care provider is required by statute and is done by  
27 the provider personally, the fee may be the usual and customary charge  
28 for a basic office visit.

29 (~~(15)~~) (16) "Third-party payor" means an insurer regulated under  
30 Title 48 RCW authorized to transact business in this state or other  
31 jurisdiction, including a health care service contractor, and health  
32 maintenance organization; or an employee welfare benefit plan; or a  
33 state or federal health benefit program.

34 (~~(16)~~) (17) "Treatment" means the provision, coordination, or  
35 management of health care and related services by one or more health  
36 care providers or health care facilities, including the coordination or  
37 management of health care by a health care provider or health care  
38 facility with a third party; consultation between health care providers

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

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

6 (1) A health care provider or health care facility may disclose  
7 health care information about a patient without the patient's  
8 authorization to the extent a recipient needs to know the information,  
9 if the disclosure is:

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

12 (b) To any other person who requires health care information for  
13 health care education, or to provide planning, quality assurance, peer  
14 review, or administrative, legal, financial, actuarial services to, or  
15 other health care operations for or on behalf of the health care  
16 provider or health care facility; or for assisting the health care  
17 provider or health care facility in the delivery of health care and the  
18 health care provider or health care facility reasonably believes that  
19 the person:

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

22 (ii) Will take appropriate steps to protect the health care  
23 information;

24 (c) To any other health care provider or health care facility  
25 reasonably believed to have previously provided health care to the  
26 patient, to the extent necessary to provide health care to the patient,  
27 unless the patient has instructed the health care provider or health  
28 care facility in writing not to make the disclosure;

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

34 (e) To immediate family members of the patient, or any other  
35 individual with whom the patient is known to have a close personal  
36 relationship, if made in accordance with good medical or other

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

4 (f) To a health care provider or health care facility who is the  
5 successor in interest to the health care provider or health care  
6 facility maintaining the health care information;

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

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

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

13 (iii) Contains reasonable safeguards to protect the information  
14 from redisclosure;

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

18 (v) Contains procedures to remove or destroy at the earliest  
19 opportunity, consistent with the purposes of the project, information  
20 that would enable the patient to be identified, unless an institutional  
21 review board authorizes retention of identifying information for  
22 purposes of another research project;

23 (h) To a person who obtains information for purposes of an audit,  
24 if 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 (i) To an official of a penal or other custodial institution in  
33 which the patient is detained;

34 (j) To provide directory information, unless the patient has  
35 instructed the health care provider or health care facility not to make  
36 the disclosure;

37 (k) To fire, police, sheriff, or another public authority, that  
38 brought, or caused to be brought, the patient to the health care

1 facility or health care provider if the disclosure is limited to the  
2 patient's name, residence, sex, age, occupation, condition, diagnosis,  
3 estimated or actual discharge date, or extent and location of injuries  
4 as determined by a physician, and whether the patient was conscious  
5 when admitted;

6 (l) To federal, state, or local law enforcement authorities and the  
7 health care provider, health care facility, or third-party payor  
8 believes in good faith that the health care information disclosed  
9 constitutes evidence of criminal conduct that occurred on the premises  
10 of the health care provider, health care facility, or third-party  
11 payor;

12 (m) To another health care provider, health care facility, or  
13 third-party payor for the health care operations of the health care  
14 provider, health care facility, or third-party payor that receives the  
15 information, if each entity has or had a relationship with the patient  
16 who is the subject of the health care information being requested, the  
17 health care information pertains to such relationship, and the  
18 disclosure is for the purposes described in RCW 70.02.010((+7)) (8)

19 (a) and (b); or

20 (n) For payment.

21 (2) A health care provider shall disclose health care information  
22 about a patient without the patient's authorization if the disclosure  
23 is:

24 (a) To federal, state, or local public health authorities, to the  
25 extent the health care provider is required by law to report health  
26 care information; when needed to determine compliance with state or  
27 federal licensure, certification or registration rules or laws; or when  
28 needed to protect the public health;

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

31 (c) To federal, state, or local law enforcement authorities, upon  
32 receipt of a written or oral request made to a nursing supervisor,  
33 administrator, or designated privacy official, in a case in which the  
34 patient is being treated or has been treated for a bullet wound,  
35 gunshot wound, powder burn, or other injury arising from or caused by  
36 the discharge of a firearm, or an injury caused by a knife, an ice  
37 pick, or any other sharp or pointed instrument which federal, state, or  
38 local law enforcement authorities reasonably believe to have been



1 intentionally inflicted upon a person, or a blunt force injury that  
2 federal, state, or local law enforcement authorities reasonably believe  
3 resulted from a criminal act, the following information, if known:

4 (i) The name of the patient;

5 (ii) The patient's residence;

6 (iii) The patient's sex;

7 (iv) The patient's age;

8 (v) The patient's condition;

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

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

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

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

15 and

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

17 (d) To county coroners and medical examiners for the investigations  
18 of deaths;

19 ((+d)) (e) Pursuant to compulsory process in accordance with RCW  
20 70.02.060.

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

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

27 When a person reported missing has not been found within thirty  
28 days of the report, the sheriff, chief of police, county coroner or  
29 county medical examiner, or other law enforcement authority initiating  
30 and conducting the investigation for the missing person shall ask the  
31 missing person's family or next of kin to give written consent to  
32 contact the dentist or dentists of the missing person and request the  
33 person's dental records.

34 The missing person's dentist or dentists shall provide diagnostic  
35 quality copies of the missing person's dental records or original  
36 dental records to the sheriff, chief of police, county coroner or  
37 county medical examiner, or other law enforcement authority, when

1 presented with the written consent from the missing person's family or  
2 next of kin or with a statement from the sheriff, chief of police,  
3 county coroner or county medical examiner, or other law enforcement  
4 authority that the missing person's family or next of kin could not be  
5 located in the exercise of due diligence or that the missing person's  
6 family or next of kin refuse to consent to the release of the missing  
7 person's dental records and there is reason to believe that the missing  
8 person's family or next of kin may have been involved in the missing  
9 person's disappearance.

10 When a person reported missing has not been found within thirty  
11 days, the sheriff, chief of police, or other law enforcement authority  
12 initiating and conducting the investigation for the missing person  
13 shall confer with the county coroner or medical examiner prior to the  
14 preparation of a missing person's report. After conferring with the  
15 coroner or medical examiner, the sheriff, chief of police, or other law  
16 enforcement authority shall submit a missing person's report and the  
17 dental records received under this section to the dental identification  
18 system of the state patrol identification, child abuse, vulnerable  
19 adult abuse, and criminal history section on forms supplied by the  
20 state patrol for such purpose.

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

24 The dental identification system shall maintain a file of  
25 information regarding persons reported to it as missing. The file  
26 shall contain the information referred to in this section and such  
27 other information as the state patrol finds relevant to assist in the  
28 location of a missing person.

29 The files of the dental identification system shall, upon request,  
30 be made available to law enforcement agencies attempting to locate  
31 missing persons.

32 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
33 preservation of the public peace, health, or safety, or support of the  
34 state government and its existing public institutions, and takes effect  
35 immediately."

36 Correct the title.

--- END ---