

SHB 1043 - S COMM AMD  
By Committee on Health Care

ADOPTED 04/10/2017

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 48.02  
4 RCW to read as follows:

5 (1) All nonpublic personal health information obtained by,  
6 disclosed to, or in the custody of the commissioner, regardless of  
7 the form or medium, is confidential and is not subject to public  
8 disclosure under chapter 42.56 RCW. The commissioner shall not  
9 disclose nonpublic personal health information except in the  
10 furtherance of regulatory or legal action brought as a part of the  
11 commissioner's official duties.

12 (2) The following definitions apply only for the purposes of this  
13 section:

14 (a) "Health information" means any information or data, except  
15 age or gender, whether oral or recorded in any form or medium,  
16 created by or derived from a health care provider or a patient, or a  
17 policyholder or enrollee, that relates to:

18 (i) The past, present, or future physical, mental, or behavioral  
19 health or condition of an individual;

20 (ii) The provision of health care to an individual; or

21 (iii) Payment for the provision of health care to an individual.

22 (b) "Health care" means preventive, diagnostic, therapeutic,  
23 rehabilitative, maintenance, or palliative care, services,  
24 procedures, tests, or counseling that:

25 (i) Relates to the physical, mental, or behavioral condition of  
26 an individual;

27 (ii) Affects the structure or function of the human body or any  
28 part of the human body, including the banking of blood, sperm,  
29 organs, or any other tissue; or

30 (iii) Prescribes, dispenses, or furnishes to an individual drugs  
31 or biologicals, or medical devices or health care equipment and  
32 supplies.

1 (c) "Nonpublic personal health information" means health  
2 information:

3 (i) That identifies an individual who is the subject of the  
4 information; or

5 (ii) With respect to which there is a reasonable basis to believe  
6 that the information could be used to identify an individual.

7 (d) "Patient" means an individual who is receiving, has received,  
8 or has sought health care. The term includes a deceased individual  
9 who has received health care.

10 (e) "Policyholder" or "enrollee" means a person who is covered  
11 by, enrolled in, has applied for, or purchased, an insurance policy,  
12 a health plan as defined in RCW 48.43.005, a group plan, or any other  
13 product regulated by the insurance commissioner. "Policyholder" or  
14 "enrollee" may include, without limitation, a subscriber, member,  
15 annuitant, beneficiary, spouse, or dependent.

16 (3) The commissioner may:

17 (a) Share documents, materials, or other information, including  
18 the confidential documents, materials, or information subject to  
19 subsection (1) of this section, with (i) the national association of  
20 insurance commissioners and its affiliates and subsidiaries, and (ii)  
21 regulatory and law enforcement officials of this and other states and  
22 nations, the federal government, and international authorities, if  
23 the recipient agrees to maintain the confidentiality and privileged  
24 status of the document, material, or other information;

25 (b) Receive documents, materials, or information, including  
26 otherwise either confidential or privileged documents, materials, or  
27 information, from (i) the national association of insurance  
28 commissioners and its affiliates and subsidiaries, and (ii)  
29 regulatory and law enforcement officials of this and other states and  
30 nations, the federal government, and international authorities and  
31 must maintain as confidential or privileged any document, material,  
32 or information received that is either confidential or privileged, or  
33 both, under the laws of the jurisdiction that is the source of the  
34 document, material, or information; and

35 (c) Enter into agreements governing the sharing and use of  
36 information consistent with this subsection.

37 (4) No waiver of an existing claim of confidentiality or  
38 privilege in the documents, materials, or information may occur as a  
39 result of disclosure to the commissioner under this section or as a  
40 result of sharing as authorized in subsection (3) of this section.

1 (5) Prior to the release of any nonpublic personal health  
2 information, the commissioner must obtain patient consent, for each  
3 instance. The consent form must indicate what information is being  
4 shared and for what purpose.

5 **Sec. 2.** RCW 42.56.400 and 2016 c 142 s 20, 2016 c 142 s 19, and  
6 2016 c 122 s 4 are each reenacted and amended to read as follows:

7 The following information relating to insurance and financial  
8 institutions is exempt from disclosure under this chapter:

9 (1) Records maintained by the board of industrial insurance  
10 appeals that are related to appeals of crime victims' compensation  
11 claims filed with the board under RCW 7.68.110;

12 (2) Information obtained and exempted or withheld from public  
13 inspection by the health care authority under RCW 41.05.026, whether  
14 retained by the authority, transferred to another state purchased  
15 health care program by the authority, or transferred by the authority  
16 to a technical review committee created to facilitate the  
17 development, acquisition, or implementation of state purchased health  
18 care under chapter 41.05 RCW;

19 (3) The names and individual identification data of either all  
20 owners or all insureds, or both, received by the insurance  
21 commissioner under chapter 48.102 RCW;

22 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

23 (5) Information provided under RCW 48.05.510 through 48.05.535,  
24 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and  
25 48.46.600 through 48.46.625;

26 (6) Examination reports and information obtained by the  
27 department of financial institutions from banks under RCW 30A.04.075,  
28 from savings banks under RCW 32.04.220, from savings and loan  
29 associations under RCW 33.04.110, from credit unions under RCW  
30 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and  
31 from securities brokers and investment advisers under RCW 21.20.100,  
32 all of which is confidential and privileged information;

33 (7) Information provided to the insurance commissioner under RCW  
34 48.110.040(3);

35 (8) Documents, materials, or information obtained by the  
36 insurance commissioner under RCW 48.02.065, all of which are  
37 confidential and privileged;

38 (9) Documents, materials, or information obtained by the  
39 insurance commissioner under RCW 48.31B.015(2) (l) and (m),

1 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential  
2 and privileged;

3 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and  
4 7.70.140 that, alone or in combination with any other data, may  
5 reveal the identity of a claimant, health care provider, health care  
6 facility, insuring entity, or self-insurer involved in a particular  
7 claim or a collection of claims. For the purposes of this subsection:

8 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

9 (b) "Health care facility" has the same meaning as in RCW  
10 48.140.010(6).

11 (c) "Health care provider" has the same meaning as in RCW  
12 48.140.010(7).

13 (d) "Insuring entity" has the same meaning as in RCW  
14 48.140.010(8).

15 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

16 (11) Documents, materials, or information obtained by the  
17 insurance commissioner under RCW 48.135.060;

18 (12) Documents, materials, or information obtained by the  
19 insurance commissioner under RCW 48.37.060;

20 (13) Confidential and privileged documents obtained or produced  
21 by the insurance commissioner and identified in RCW 48.37.080;

22 (14) Documents, materials, or information obtained by the  
23 insurance commissioner under RCW 48.37.140;

24 (15) Documents, materials, or information obtained by the  
25 insurance commissioner under RCW 48.17.595;

26 (16) Documents, materials, or information obtained by the  
27 insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and  
28 (7)(a)(ii);

29 (17) Documents, materials, or information obtained by the  
30 insurance commissioner in the commissioner's capacity as receiver  
31 under RCW 48.31.025 and 48.99.017, which are records under the  
32 jurisdiction and control of the receivership court. The commissioner  
33 is not required to search for, log, produce, or otherwise comply with  
34 the public records act for any records that the commissioner obtains  
35 under chapters 48.31 and 48.99 RCW in the commissioner's capacity as  
36 a receiver, except as directed by the receivership court;

37 (18) Documents, materials, or information obtained by the  
38 insurance commissioner under RCW 48.13.151;

39 (19) Data, information, and documents provided by a carrier  
40 pursuant to section 1, chapter 172, Laws of 2010;

1 (20) Information in a filing of usage-based insurance about the  
2 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);  
3 (21) Data, information, and documents, other than those described  
4 in RCW 48.02.210(2), that are submitted to the office of the  
5 insurance commissioner by an entity providing health care coverage  
6 pursuant to RCW 28A.400.275 and 48.02.210;  
7 (22) Data, information, and documents obtained by the insurance  
8 commissioner under RCW 48.29.017;  
9 (23) Information not subject to public inspection or public  
10 disclosure under RCW 48.43.730(5);  
11 (24) Documents, materials, or information obtained by the  
12 insurance commissioner under chapter 48.05A RCW; (~~and~~)  
13 (25) Documents, materials, or information obtained by the  
14 insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6),  
15 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents,  
16 materials, or information independently qualify for exemption from  
17 disclosure as documents, materials, or information in possession of  
18 the commissioner pursuant to a financial conduct examination and  
19 exempt from disclosure under RCW 48.02.065; and  
20 (26) Nonpublic personal health information obtained by, disclosed  
21 to, or in the custody of the insurance commissioner, as provided in  
22 section 1 of this act."

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23 On page 1, line 1 of the title, after "information;" strike the  
24 remainder of the title and insert "reenacting and amending RCW  
25 42.56.400; and adding a new section to chapter 48.02 RCW."

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