

ESHB 1239 - S COMM AMD

By Committee on Health & Long Term Care

ADOPTED 03/01/2018

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

3 "Sec. 1. RCW 70.02.030 and 2014 c 220 s 15 are each amended to
4 read as follows:

5 (1) A patient may authorize a health care provider or health care
6 facility to disclose the patient's health care information. A health
7 care provider or health care facility shall honor an authorization
8 and, if requested, provide a copy of the recorded health care
9 information unless the health care provider or health care facility
10 denies the patient access to health care information under RCW
11 70.02.090.

12 (2)(a) Except as provided in (b) of this subsection, a health
13 care provider or health care facility may charge a reasonable fee for
14 providing the health care information and is not required to honor an
15 authorization until the fee is paid.

16 (b) Upon request of a patient or a patient's personal
17 representative, a health care facility or health care provider shall
18 provide the patient or representative with one copy of the patient's
19 health care information free of charge if the patient is appealing
20 the denial of federal supplemental security income or social security
21 disability benefits. The patient or representative may complete a
22 disclosure authorization specifying the health care information
23 requested and provide it to the health care facility or health care
24 provider. The health care facility or health care provider may
25 provide the health care information in either paper or electronic
26 format. A health care facility or health care provider is not
27 required to provide a patient or a patient's personal representative
28 with a free copy of health care information that has previously been
29 provided free of charge pursuant to a request within the preceding
30 two years.

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

- 1 (a) Be in writing, dated, and signed by the patient;
 - 2 (b) Identify the nature of the information to be disclosed;
 - 3 (c) Identify the name and institutional affiliation of the person
 - 4 or class of persons to whom the information is to be disclosed;
 - 5 (d) Identify the provider or class of providers who are to make
 - 6 the disclosure;
 - 7 (e) Identify the patient; and
 - 8 (f) Contain an expiration date or an expiration event that
 - 9 relates to the patient or the purpose of the use or disclosure.
- 10 (4) Unless disclosure without authorization is otherwise
- 11 permitted under RCW 70.02.050 or the federal health insurance
- 12 portability and accountability act of 1996 and its implementing
- 13 regulations, an authorization may permit the disclosure of health
- 14 care information to a class of persons that includes:
- 15 (a) Researchers if the health care provider or health care
 - 16 facility obtains the informed consent for the use of the patient's
 - 17 health care information for research purposes; or
 - 18 (b) Third-party payors if the information is only disclosed for
 - 19 payment purposes.
- 20 (5) Except as provided by this chapter, the signing of an
- 21 authorization by a patient is not a waiver of any rights a patient
- 22 has under other statutes, the rules of evidence, or common law.
- 23 (6) When an authorization permits the disclosure of health care
- 24 information to a financial institution or an employer of the patient
- 25 for purposes other than payment, the authorization as it pertains to
- 26 those disclosures shall expire one year after the signing of the
- 27 authorization, unless the authorization is renewed by the patient.
- 28 (7) A health care provider or health care facility shall retain
- 29 the original or a copy of each authorization or revocation in
- 30 conjunction with any health care information from which disclosures
- 31 are made.
- 32 (8) Where the patient is under the supervision of the department
- 33 of corrections, an authorization signed pursuant to this section for
- 34 health care information related to mental health or drug or alcohol
- 35 treatment expires at the end of the term of supervision, unless the
- 36 patient is part of a treatment program that requires the continued
- 37 exchange of information until the end of the period of treatment.

38 **Sec. 2.** RCW 70.02.045 and 2015 c 289 s 1 are each amended to

39 read as follows:

1 Third-party payors shall not release health care information
2 disclosed under this chapter, except as required by chapter 43.371
3 RCW and section 4 of this act and to the extent that health care
4 providers are authorized to do so under RCW 70.02.050, 70.02.200, and
5 70.02.210.

6 **Sec. 3.** RCW 70.02.080 and 1993 c 448 s 5 are each amended to
7 read as follows:

8 (1) Upon receipt of a written request from a patient to examine
9 or copy all or part of the patient's recorded health care
10 information, a health care provider, as promptly as required under
11 the circumstances, but no later than fifteen working days after
12 receiving the request shall:

13 (a) Make the information available for examination during regular
14 business hours and provide a copy, if requested, to the patient;

15 (b) Inform the patient if the information does not exist or
16 cannot be found;

17 (c) If the health care provider does not maintain a record of the
18 information, inform the patient and provide the name and address, if
19 known, of the health care provider who maintains the record;

20 (d) If the information is in use or unusual circumstances have
21 delayed handling the request, inform the patient and specify in
22 writing the reasons for the delay and the earliest date, not later
23 than twenty-one working days after receiving the request, when the
24 information will be available for examination or copying or when the
25 request will be otherwise disposed of; or

26 (e) Deny the request, in whole or in part, under RCW 70.02.090
27 and inform the patient.

28 (2) Upon request, the health care provider shall provide an
29 explanation of any code or abbreviation used in the health care
30 information. If a record of the particular health care information
31 requested is not maintained by the health care provider in the
32 requested form, the health care provider is not required to create a
33 new record or reformulate an existing record to make the health care
34 information available in the requested form. Except as provided in
35 RCW 70.02.030, the health care provider may charge a reasonable fee
36 for providing the health care information and is not required to
37 permit examination or copying until the fee is paid.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.43
2 RCW to read as follows:

3 Upon request of a covered person or a covered person's personal
4 representative, an issuer shall provide the covered person or
5 representative with one copy of the covered person's health care
6 information free of charge if the covered person is appealing the
7 denial of federal supplemental security income or social security
8 disability benefits. The issuer may provide the health care
9 information in either paper or electronic format. An issuer is not
10 required to provide a covered person or a covered person's personal
11 representative with a free copy of health care information that has
12 previously been provided free of charge pursuant to a request within
13 the preceding two years. For purposes of this section, "health care
14 information" has the same meaning as in RCW 70.02.010."

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15 On page 1, line 2 of the title, after "benefits;" strike the
16 remainder of the title and insert "amending RCW 70.02.030, 70.02.045,
17 and 70.02.080; and adding a new section to chapter 48.43 RCW."

EFFECT: Eliminates the requirement that the patient must submit
disclosure authorization and adds that if the patient does submit a
disclosure authorization, it should specify the health care
information requested.

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