

---

SENATE BILL 5561

---

State of Washington                      65th Legislature                      2017 Regular Session

By Senators Fortunato, Zeiger, Padden, Hawkins, and Brown

Read first time 01/27/17. Referred to Committee on Health Care.

1            AN ACT Relating to disclosure of information regarding treatment  
2 or care of minors; and amending RCW 70.02.050 and 70.02.220.

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

4            **Sec. 1.** RCW 70.02.050 and 2014 c 220 s 6 are each amended to  
5 read as follows:

6            (1) A health care provider or health care facility may disclose  
7 health care information, except for information and records related  
8 to sexually transmitted diseases which are addressed in RCW  
9 70.02.220, about a patient without the patient's authorization to the  
10 extent a recipient needs to know the information, if the disclosure  
11 is:

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

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

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

3 (ii) Will take appropriate steps to protect the health care  
4 information;

5 (c) To any person if the health care provider or health care  
6 facility reasonably believes that disclosure will avoid or minimize  
7 an imminent danger to the health or safety of the patient or any  
8 other individual, however there is no obligation under this chapter  
9 on the part of the provider or facility to so disclose. The fact of  
10 admission to a provider for mental health services and all  
11 information and records compiled, obtained, or maintained in the  
12 course of providing mental health services to either voluntary or  
13 involuntary recipients of services at public or private agencies is  
14 not subject to disclosure unless disclosure is permitted in RCW  
15 70.02.230; or

16 (d) For payment, including information necessary for a recipient  
17 to make a claim, or for a claim to be made on behalf of a recipient  
18 for aid, insurance, or medical assistance to which he or she may be  
19 entitled.

20 (2) A health care provider shall disclose health care  
21 information, except for information and records related to sexually  
22 transmitted diseases, unless otherwise authorized in RCW 70.02.220,  
23 about a patient without the patient's authorization if the disclosure  
24 is:

25 (a) To federal, state, or local public health authorities, to the  
26 extent the health care provider is required by law to report health  
27 care information; when needed to determine compliance with state or  
28 federal licensure, certification or registration rules or laws, or to  
29 investigate unprofessional conduct or ability to practice with  
30 reasonable skill and safety under chapter 18.130 RCW. Any health care  
31 information obtained under this subsection is exempt from public  
32 inspection and copying pursuant to chapter 42.56 RCW; ((~~or~~))

33 (b) When needed to protect the public health; or

34 (c) To the parent or guardian of a minor, upon request of the  
35 parent or guardian, regarding the treatment or care of the minor,  
36 including testing, evaluation, treatment, or counseling concerning  
37 drugs, mental problems, AIDS, pregnancy, or psychological exams. The  
38 health care provider is not required to respond to such a request  
39 while providing emergency medical treatment.

1       **Sec. 2.** RCW 70.02.220 and 2013 c 200 s 6 are each amended to  
2 read as follows:

3       (1) No person may disclose or be compelled to disclose the  
4 identity of any person who has investigated, considered, or requested  
5 a test or treatment for a sexually transmitted disease, except as  
6 authorized by this section, RCW 70.02.210, or chapter 70.24 RCW.

7       (2) No person may disclose or be compelled to disclose  
8 information and records related to sexually transmitted diseases,  
9 except as authorized by this section, RCW 70.02.210, or chapter 70.24  
10 RCW. A person may disclose information related to sexually  
11 transmitted diseases about a patient without the patient's  
12 authorization, to the extent a recipient needs to know the  
13 information, if the disclosure is to:

14       (a) The subject of the test or the subject's legal representative  
15 for health care decisions in accordance with RCW 7.70.065(~~(, with the~~  
16 ~~exception of such a representative of a minor fourteen years of age~~  
17 ~~or over and otherwise competent)). The person shall disclose  
18 information related to sexually transmitted diseases to the parent or  
19 guardian of a minor, upon request of the parent or guardian;~~

20       (b) The state public health officer as defined in RCW 70.24.017,  
21 a local public health officer, or the centers for disease control of  
22 the United States public health service in accordance with reporting  
23 requirements for a diagnosed case of a sexually transmitted disease;

24       (c) A health facility or health care provider that procures,  
25 processes, distributes, or uses: (i) A human body part, tissue, or  
26 blood from a deceased person with respect to medical information  
27 regarding that person; (ii) semen, including that was provided prior  
28 to March 23, 1988, for the purpose of artificial insemination; or  
29 (iii) blood specimens;

30       (d) Any state or local public health officer conducting an  
31 investigation pursuant to RCW 70.24.024, so long as the record was  
32 obtained by means of court-ordered HIV testing pursuant to RCW  
33 70.24.340 or 70.24.024;

34       (e) A person allowed access to the record by a court order  
35 granted after application showing good cause therefor. In assessing  
36 good cause, the court shall weigh the public interest and the need  
37 for disclosure against the injury to the patient, to the physician-  
38 patient relationship, and to the treatment services. Upon the  
39 granting of the order, the court, in determining the extent to which  
40 any disclosure of all or any part of the record of any such test is

1 necessary, shall impose appropriate safeguards against unauthorized  
2 disclosure. An order authorizing disclosure must: (i) Limit  
3 disclosure to those parts of the patient's record deemed essential to  
4 fulfill the objective for which the order was granted; (ii) limit  
5 disclosure to those persons whose need for information is the basis  
6 for the order; and (iii) include any other appropriate measures to  
7 keep disclosure to a minimum for the protection of the patient, the  
8 physician-patient relationship, and the treatment services;

9 (f) Persons who, because of their behavioral interaction with the  
10 infected individual, have been placed at risk for acquisition of a  
11 sexually transmitted disease, as provided in RCW 70.24.022, if the  
12 health officer or authorized representative believes that the exposed  
13 person was unaware that a risk of disease exposure existed and that  
14 the disclosure of the identity of the infected person is necessary;

15 (g) A law enforcement officer, firefighter, health care provider,  
16 health care facility staff person, department of correction's staff  
17 person, jail staff person, or other persons as defined by the board  
18 of health in rule pursuant to RCW 70.24.340(4), who has requested a  
19 test of a person whose bodily fluids he or she has been substantially  
20 exposed to, pursuant to RCW 70.24.340(4), if a state or local public  
21 health officer performs the test;

22 (h) Claims management personnel employed by or associated with an  
23 insurer, health care service contractor, health maintenance  
24 organization, self-funded health plan, state administered health care  
25 claims payer, or any other payer of health care claims where such  
26 disclosure is to be used solely for the prompt and accurate  
27 evaluation and payment of medical or related claims. Information  
28 released under this subsection must be confidential and may not be  
29 released or available to persons who are not involved in handling or  
30 determining medical claims payment; and

31 (i) A department of social and health services worker, a child  
32 placing agency worker, or a guardian ad litem who is responsible for  
33 making or reviewing placement or case-planning decisions or  
34 recommendations to the court regarding a child, who is less than  
35 fourteen years of age, has a sexually transmitted disease, and is in  
36 the custody of the department of social and health services or a  
37 licensed child placing agency. This information may also be received  
38 by a person responsible for providing residential care for such a  
39 child when the department of social and health services or a licensed

1 child placing agency determines that it is necessary for the  
2 provision of child care services.

3 (3) No person to whom the results of a test for a sexually  
4 transmitted disease have been disclosed pursuant to subsection (2) of  
5 this section may disclose the test results to another person except  
6 as authorized by that subsection.

7 (4) The release of sexually transmitted disease information  
8 regarding an offender or detained person, except as provided in  
9 subsection (2)(d) of this section, is governed as follows:

10 (a) The sexually transmitted disease status of a department of  
11 corrections offender who has had a mandatory test conducted pursuant  
12 to RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available  
13 by department of corrections health care providers and local public  
14 health officers to the department of corrections health care  
15 administrator or infection control coordinator of the facility in  
16 which the offender is housed. The information made available to the  
17 health care administrator or the infection control coordinator under  
18 this subsection (4)(a) may be used only for disease prevention or  
19 control and for protection of the safety and security of the staff,  
20 offenders, and the public. The information may be submitted to  
21 transporting officers and receiving facilities, including facilities  
22 that are not under the department of corrections' jurisdiction  
23 according to the provisions of (d) and (e) of this subsection.

24 (b) The sexually transmitted disease status of a person detained  
25 in a jail who has had a mandatory test conducted pursuant to RCW  
26 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the  
27 local public health officer to a jail health care administrator or  
28 infection control coordinator. The information made available to a  
29 health care administrator under this subsection (4)(b) may be used  
30 only for disease prevention or control and for protection of the  
31 safety and security of the staff, offenders, detainees, and the  
32 public. The information may be submitted to transporting officers and  
33 receiving facilities according to the provisions of (d) and (e) of  
34 this subsection.

35 (c) Information regarding the sexually transmitted disease status  
36 of an offender or detained person is confidential and may be  
37 disclosed by a correctional health care administrator or infection  
38 control coordinator or local jail health care administrator or  
39 infection control coordinator only as necessary for disease  
40 prevention or control and for protection of the safety and security

1 of the staff, offenders, and the public. Unauthorized disclosure of  
2 this information to any person may result in disciplinary action, in  
3 addition to the penalties prescribed in RCW 70.24.080 or any other  
4 penalties as may be prescribed by law.

5 (d) Notwithstanding the limitations on disclosure contained in  
6 (a), (b), and (c) of this subsection, whenever any member of a jail  
7 staff or department of corrections staff has been substantially  
8 exposed to the bodily fluids of an offender or detained person, then  
9 the results of any tests conducted pursuant to RCW 70.24.340(1),  
10 70.24.360, or 70.24.370, must be immediately disclosed to the staff  
11 person in accordance with the Washington Administrative Code rules  
12 governing employees' occupational exposure to blood-borne pathogens.  
13 Disclosure must be accompanied by appropriate counseling for the  
14 staff member, including information regarding follow-up testing and  
15 treatment. Disclosure must also include notice that subsequent  
16 disclosure of the information in violation of this chapter or use of  
17 the information to harass or discriminate against the offender or  
18 detainee may result in disciplinary action, in addition to the  
19 penalties prescribed in RCW 70.24.080, and imposition of other  
20 penalties prescribed by law.

21 (e) The staff member must also be informed whether the offender  
22 or detained person had any other communicable disease, as defined in  
23 RCW 72.09.251(3), when the staff person was substantially exposed to  
24 the offender's or detainee's bodily fluids.

25 (f) The test results of voluntary and anonymous HIV testing or  
26 HIV-related condition, as defined in RCW 70.24.017, may not be  
27 disclosed to a staff person except as provided in this section and  
28 RCW 70.02.050(1)(~~(e)~~) (d) and 70.24.340(4). A health care  
29 administrator or infection control coordinator may provide the staff  
30 member with information about how to obtain the offender's or  
31 detainee's test results under this section and RCW 70.02.050(1)  
32 (~~(e)~~) (d) and 70.24.340(4).

33 (5) The requirements of this section do not apply to the  
34 customary methods utilized for the exchange of medical information  
35 among health care providers in order to provide health care services  
36 to the patient, nor do they apply within health care facilities where  
37 there is a need for access to confidential medical information to  
38 fulfill professional duties.

39 (6) Upon request of the victim, disclosure of test results under  
40 this section to victims of sexual offenses under chapter 9A.44 RCW

1 must be made if the result is negative or positive. The county  
2 prosecuting attorney shall notify the victim of the right to such  
3 disclosure. The disclosure must be accompanied by appropriate  
4 counseling, including information regarding follow-up testing.

5 (7) A person, including a health care facility or health care  
6 provider, shall disclose the identity of any person who has  
7 investigated, considered, or requested a test or treatment for a  
8 sexually transmitted disease and information and records related to  
9 sexually transmitted diseases to federal, state, or local public  
10 health authorities, to the extent the health care provider is  
11 required by law to report health care information; when needed to  
12 determine compliance with state or federal certification or  
13 registration rules or laws; or when needed to protect the public  
14 health. Any health care information obtained under this subsection is  
15 exempt from public inspection and copying pursuant to chapter 42.56  
16 RCW.

--- END ---