

# HOUSE BILL REPORT

## SB 5596

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**As Reported by House Committee On:**  
Civil Rights & Judiciary

**Title:** An act relating to conforming disclosure restrictions for mental health counselors, marriage and family therapists, and social workers to the requirements of the Uniform Health Care Information Act.

**Brief Description:** Conforming disclosure restrictions for mental health counselors, marriage and family therapists, and social workers to the requirements of the Uniform Health Care Information Act.

**Sponsors:** Senators Trudeau, Frockt, Dhingra, Nobles and Wilson, C..

**Brief History:**

**Committee Activity:**

Civil Rights & Judiciary: 2/22/22, 2/23/22 [DP].

**Brief Summary of Bill**

- Authorizes mental health counselors, marriage and family therapists, or social workers to disclose health care information of a client under circumstances authorized by the Uniform Health Care Information Act (UHCIA).
- Requires mental health counselors, marriage and family therapists, or social workers to provide accurate disclosure information about the extent of confidentiality provided by the UHCIA.

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### HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** Do pass. Signed by 11 members: Representatives Hansen, Chair; Simmons, Vice Chair; Davis, Entenman, Goodman, Kirby, Orwall, Peterson, Thai, Valdez and Walen.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Do not pass. Signed by 4 members: Representatives Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno and Ybarra.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Gilday, Assistant Ranking Minority Member; Klippert.

**Staff:** Yelena Baker (786-7301).

**Background:**

Mental Health Counselors, Marriage and Family Therapists, and Social Workers.

A mental health counselor, marriage and family therapist, or social worker is a master's level professional licensed by the Department of Health (DOH) to provide client services which may include psychotherapy, diagnosis and treatment of behavioral health disorders, case management, advocacy, and counseling, according to the professional's specialization.

At the beginning of any program of treatment, a mental health counselor, marriage and family therapist, or social worker must provide a client with accurate disclosure information about the professional's practices. Information in this disclosure relates to the right of clients to refuse treatment, the client's choice of provider and treatment modality, and the extent of confidentiality provided by state law that regulates these professions.

A client's acknowledgment of the disclosure statement or information received by the professional when consulting the client in a professional capacity may not be disclosed without the client's written authorization unless:

- the client waives the privilege by bringing charges against the professional;
- the disclosure is in response to a subpoena from the DOH; or
- disclosure is in the context of civil commitment proceedings or is necessary to comply with mandatory reporting requirements related to abuse of children or vulnerable adults.

Additionally, information received by the professional may be disclosed to any individual without the client's authorization if the professional reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the client or any other individual. However, there is no obligation on the part of the professional to so disclose.

The Uniform Health Care Information Act.

The Uniform Health Care Information Act (UHCIA) prohibits a health care provider or their assistant, agent, or employee from disclosing health care information about a patient without the patient's written authorization that identifies the nature of the information to be disclosed and the persons to whom the information is to be disclosed. The UHCIA defines "health care" broadly as any care, service, or procedure that affects the structure or any function of the human body or diagnoses, treats, or maintains a patient's physical or mental condition.

The UHCIA contains exceptions which allow disclosure of health care information without a patient's written authorization, including, but not limited to, disclosures for:

- the provision of health care;
- quality assurance, peer review, or administrative, legal, financial, or actuarial services;
- research purposes;
- public health and law enforcement activities as required by law; and
- judicial proceedings.

Additionally, the UHCIA permits disclosure of health care information without written authorization to any person if the health care provider or health care facility believes, in good faith, that use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the information is disclosed only to persons reasonably able to prevent or lessen the threat, including the target of the threat. However, there is no obligation under the UHCIA on the part of the provider or facility to so disclose.

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**Summary of Bill:**

In addition to existing disclosure requirements, at the beginning of any program of treatment, a mental health counselor, marriage and family therapist, or social worker must provide a client with accurate disclosure information about the extent of confidentiality provided by the UHCIA.

A client's acknowledgment of the disclosure statement or information received by the professional when consulting the client in a professional capacity may be disclosed, with or without written authorization, as authorized or required under the UHCIA.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The bill resolves an existing regulatory conflict that creates an undue burden for behavioral health agencies. When services are provided by agency-affiliated counselors, the requirements for disclosing patient information are in line with the UHCIA. When

those same services are provided by licensed mental health counselors, marriage and family therapists, and social workers, the agencies have to follow more restrictive regulations.

The permitted disclosures made under the broader UHCIA are made only when the recipient health care provider needs to know the information in order to serve the client effectively.

(Opposed) None.

(Other) The effort to reconcile the conflict in regulations is appreciated. Under current law, these professionals are subject to both RCW 18.255.105, which is too restrictive, and the UHCIA, which is too lenient. For example, RCW 18.225.105 does not allow clinicians to disclose confidential client information without written client authorization to coordinate care among various providers or among a treatment team within the same facility. On the other hand, the UHCIA permits disclosure of confidential health care information without client consent to family members of the client in a range of circumstances, which would not be clinically appropriate in counseling relationships. Rather than wholly adopting the language of the UHCIA into RCW 18.225.105, it is better to seek middle ground between the two by adding certain additional disclosure exceptions into RCW 18.22.105 from the UHCIA, such as the clinical consultation exception and the coordination of care exception.

**Persons Testifying:** (In support) Linda Thomas, Catholic Community Services.

(Other) Michelle Finley, Washington Association of Marriage and Family Therapy.

**Persons Signed In To Testify But Not Testifying:** None.