

CERTIFICATION OF ENROLLMENT
SUBSTITUTE HOUSE BILL 1828

52nd Legislature
1991 Regular Session

Passed by the House March 19, 1991
Yeas 98 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 18, 1991
Yeas 43 Nays 2

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1828** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

1 their health care and correct inaccurate or incomplete information
2 about themselves.

3 (3) In order to retain the full trust and confidence of patients,
4 health care providers have an interest in assuring that health care
5 information is not improperly disclosed and in having clear and certain
6 rules for the disclosure of health care information.

7 (4) Persons other than health care providers obtain, use, and
8 disclose health record information in many different contexts and for
9 many different purposes. It is the public policy of this state that a
10 patient's interest in the proper use and disclosure of the patient's
11 health care information survives even when the information is held by
12 persons other than health care providers.

13 (5) The movement of patients and their health care information
14 across state lines, access to and exchange of health care information
15 from automated data banks, and the emergence of multistate health care
16 providers creates a compelling need for uniform law, rules, and
17 procedures governing the use and disclosure of health care information.

18 NEW SECTION. **Sec. 102.** DEFINITIONS. As used in this chapter,
19 unless the context otherwise requires:

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

23 (a) Statutory, regulatory, fiscal, medical, or scientific
24 standards;

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

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

28 (2) "Directory information" means information disclosing the
29 presence and the general health condition of a particular patient who

1 is a patient in a health care facility or who is currently receiving
2 emergency health care in a health care facility.

3 (3) "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) "Health care" means any care, service, or procedure provided by
7 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) "Health care facility" means a hospital, clinic, nursing home,
12 laboratory, office, or similar place where a health care provider
13 provides health care to patients.

14 (6) "Health care information" means any information, whether oral
15 or recorded in any form or medium, that identifies or can readily be
16 associated with the identity of a patient and directly relates to the
17 patient's health care. The term includes any record of disclosures of
18 health care information.

19 (7) "Health care provider" means a person who is licensed,
20 certified, registered, or otherwise authorized by the law of this state
21 to provide health care in the ordinary course of business or practice
22 of a profession.

23 (8) "Institutional review board" means any board, committee, or
24 other group formally designated by an institution, or authorized under
25 federal or state law, to review, approve the initiation of, or conduct
26 periodic review of research programs to assure the protection of the
27 rights and welfare of human research subjects.

28 (9) "Maintain," as related to health care information, means to
29 hold, possess, preserve, retain, store, or control that information.

1 (10) "Patient" means an individual who receives or has received
2 health care. The term includes a deceased individual who has received
3 health care.

4 (11) "Person" means an individual, corporation, business trust,
5 estate, trust, partnership, association, joint venture, government,
6 governmental subdivision or agency, or any other legal or commercial
7 entity.

8 (12) "Reasonable fee" means the charges for duplicating or
9 searching the record specified in RCW 36.18.020 (8) or (16),
10 respectively. However, where editing of records by a health care
11 provider is required by statute and is done by the provider personally,
12 the fee may be the usual and customary charge for a basic office visit.

13 ARTICLE II

14 DISCLOSURE OF HEALTH CARE INFORMATION

15 NEW SECTION. **Sec. 201.** DISCLOSURE BY HEALTH CARE PROVIDER.

16 Except as authorized in section 204 of this act, a health care
17 provider, an individual who assists a health care provider in the
18 delivery of health care, or an agent and employee of a health care
19 provider may not disclose health care information about a patient to
20 any other person without the patient's written authorization. A
21 disclosure made under a patient's written authorization must conform to
22 the authorization.

23 Health care providers or facilities shall chart all disclosures,
24 except to third-party health care payors, of health care information,
25 such chartings to become part of the health care information.

26 NEW SECTION. **Sec. 202.** PATIENT AUTHORIZATION TO HEALTH CARE
27 PROVIDER FOR DISCLOSURE. (1) A patient may authorize a health care

1 provider to disclose the patient's health care information. A health
2 care provider shall honor an authorization and, if requested, provide
3 a copy of the recorded health care information unless the health care
4 provider denies the patient access to health care information under
5 section 302 of this act.

6 (2) A health care provider may charge a reasonable fee, not to
7 exceed the health care provider's actual cost for providing the health
8 care information, and is not required to honor an authorization until
9 the fee is paid.

10 (3) To be valid, a disclosure authorization to a health care
11 provider shall:

12 (a) Be in writing, dated, and signed by the patient;

13 (b) Identify the nature of the information to be disclosed;

14 (c) Identify the name, address, and institutional affiliation of
15 the person to whom the information is to be disclosed;

16 (d) Identify the provider who is to make the disclosure; and

17 (e) Identify the patient.

18 (4) Except as provided by this chapter, the signing of an
19 authorization by a patient is not a waiver of any rights a patient has
20 under other statutes, the rules of evidence, or common law.

21 (5) A health care provider shall retain each authorization or
22 revocation in conjunction with any health care information from which
23 disclosures are made. This requirement shall not apply to disclosures
24 to third-party health care payors.

25 (6) Except for authorizations to provide information to third-party
26 health care payors, an authorization may not permit the release of
27 health care information relating to future health care that the patient
28 receives more than ninety days after the authorization was signed.
29 Patients shall be advised of the period of validity of their
30 authorization on the disclosure authorization form.

1 (7) Except for authorizations to provide information to third-party
2 health payors, an authorization in effect on the effective date of this
3 section remains valid for six months after the effective date of this
4 section unless an earlier date is specified or it is revoked under
5 section 203 of this act. Health care information disclosed under such
6 an authorization is otherwise subject to this chapter. An
7 authorization written after the effective date of this section becomes
8 invalid after the expiration date contained in the authorization, which
9 may not exceed ninety days. If the authorization does not contain an
10 expiration date, it expires ninety days after it is signed.

11 NEW SECTION. **Sec. 203.** PATIENT'S REVOCATION OF AUTHORIZATION FOR
12 DISCLOSURE. A patient may revoke in writing a disclosure authorization
13 to a health care provider at any time unless disclosure is required to
14 effectuate payments for health care that has been provided or other
15 substantial action has been taken in reliance on the authorization. A
16 patient may not maintain an action against the health care provider for
17 disclosures made in good-faith reliance on an authorization if the
18 health care provider had no actual notice of the revocation of the
19 authorization.

20 NEW SECTION. **Sec. 204.** DISCLOSURE WITHOUT PATIENT'S
21 AUTHORIZATION. (1) A health care provider may disclose health care
22 information about a patient without the patient's authorization to the
23 extent a recipient needs to know the information, if the disclosure is:

24 (a) To a person who the provider reasonably believes is providing
25 health care to the patient;

26 (b) To any other person who requires health care information for
27 health care education, or to provide planning, quality assurance, peer
28 review, or administrative, legal, financial, or actuarial services to

1 the health care provider; or for assisting the health care provider in
2 the delivery of health care and the health care provider reasonably
3 believes that the person:

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

6 (ii) Will take appropriate steps to protect the health care
7 information;

8 (c) To any other health care provider reasonably believed to have
9 previously provided health care to the patient, to the extent necessary
10 to provide health care to the patient, unless the patient has
11 instructed the health care provider in writing not to make the
12 disclosure;

13 (d) To any person if the health care provider reasonably believes
14 that disclosure will avoid or minimize an imminent danger to the health
15 or safety of the patient or any other individual, however there is no
16 obligation under this chapter on the part of the provider to so
17 disclose;

18 (e) Oral, and made to immediate family members of the patient, or
19 any other individual with whom the patient is known to have a close
20 personal relationship, if made in accordance with good medical or other
21 professional practice, unless the patient has instructed the health
22 care provider in writing not to make the disclosure;

23 (f) To a health care provider who is the successor in interest to
24 the health care provider maintaining the health care information;

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

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

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

1 (iii) Contains reasonable safeguards to protect the information
2 from redisclosure;

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

6 (v) Contains procedures to remove or destroy at the earliest
7 opportunity, consistent with the purposes of the project, information
8 that would enable the patient to be identified, unless an institutional
9 review board authorizes retention of identifying information for
10 purposes of another research project;

11 (h) To a person who obtains information for purposes of an audit,
12 if that person agrees in writing to:

13 (i) Remove or destroy, at the earliest opportunity consistent with
14 the purpose of the audit, information that would enable the patient to
15 be identified; and

16 (ii) Not to disclose the information further, except to accomplish
17 the audit or report unlawful or improper conduct involving fraud in
18 payment for health care by a health care provider or patient, or other
19 unlawful conduct by the health care provider;

20 (i) To an official of a penal or other custodial institution in
21 which the patient is detained;

22 (j) To provide directory information, unless the patient has
23 instructed the health care provider not to make the disclosure.

24 (2) A health care provider shall disclose health care information
25 about a patient without the patient's authorization if the disclosure
26 is:

27 (a) To federal, state, or local public health authorities, to the
28 extent the health care provider is required by law to report health
29 care information; when needed to determine compliance with state or

1 federal licensure, certification or registration rules or laws; or when
2 needed to protect the public health;

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

5 (c) Pursuant to compulsory process in accordance with section 205
6 of this act.

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

11 NEW SECTION. **Sec. 205.** COMPULSORY PROCESS. (1) Before service of
12 a discovery request or compulsory process on a health care provider for
13 health care information, an attorney shall provide advance notice to
14 the health care provider and the patient or the patient's attorney
15 involved through service of process or first class mail, indicating the
16 health care provider from whom the information is sought, what health
17 care information is sought, and the date by which a protective order
18 must be obtained to prevent the health care provider from complying.
19 Such date shall give the patient and the health care provider adequate
20 time to seek a protective order, but in no event be less than fourteen
21 days since the date of service or delivery to the patient and the
22 health care provider of the foregoing. Thereafter the request for
23 discovery or compulsory process shall be served on the health care
24 provider.

25 (2) Without the written consent of the patient, the health care
26 provider may not disclose the health care information sought under
27 subsection (1) of this section if the requestor has not complied with
28 the requirements of subsection (1) of this section. In the absence of
29 a protective order issued by a court of competent jurisdiction

1 forbidding compliance, the health care provider shall disclose the
2 information in accordance with this chapter. In the case of
3 compliance, the request for discovery or compulsory process shall be
4 made a part of the patient record.

5 (3) Production of health care information under this section, in
6 and of itself, does not constitute a waiver of any privilege,
7 objection, or defense existing under other law or rule of evidence or
8 procedure.

9 NEW SECTION. **Sec. 206.** CERTIFICATION OF RECORD. Upon the request
10 of the person requesting the record, the health care provider or
11 facility shall certify the record furnished and may charge for such
12 certification in accordance with RCW 36.18.020(9). No record need be
13 certified until the fee is paid. The certification shall be affixed to
14 the record and disclose:

15 (1) The identity of the patient;

16 (2) The kind of health care information involved;

17 (3) The identity of the person to whom the information is being
18 furnished;

19 (4) The identity of the health care provider or facility furnishing
20 the information;

21 (5) The number of pages of the health care information;

22 (6) The date on which the health care information is furnished; and

23 (7) That the certification is to fulfill and meet the requirements
24 of this section.

25 ARTICLE III

26 EXAMINATION AND COPYING OF RECORD

1 NEW SECTION. **Sec. 301.** REQUIREMENTS AND PROCEDURES FOR PATIENT'S
2 EXAMINATION AND COPYING. (1) Upon receipt of a written request from a
3 patient to examine or copy all or part of the patient's recorded health
4 care information, a health care provider, as promptly as required under
5 the circumstances, but no later than fifteen working days after
6 receiving the request shall:

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

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

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

14 (d) If the information is in use or unusual circumstances have
15 delayed handling the request, inform the patient and specify in writing
16 the reasons for the delay and the earliest date, not later than twenty-
17 one working days after receiving the request, when the information will
18 be available for examination or copying or when the request will be
19 otherwise disposed of; or

20 (e) Deny the request, in whole or in part, under section 302 of
21 this act and inform the patient.

22 (2) Upon request, the health care provider shall provide an
23 explanation of any code or abbreviation used in the health care
24 information. If a record of the particular health care information
25 requested is not maintained by the health care provider in the
26 requested form, the health care provider is not required to create a
27 new record or reformulate an existing record to make the health care
28 information available in the requested form. The health care provider
29 may charge a reasonable fee, not to exceed the health care provider's

1 actual cost, for providing the health care information and is not
2 required to permit examination or copying until the fee is paid.

3 NEW SECTION. **Sec. 302.** DENIAL OF EXAMINATION AND COPYING. (1)

4 Subject to any conflicting requirement in the public disclosure act,
5 chapter 42.17 RCW, a health care provider may deny access to health
6 care information by a patient if the health care provider reasonably
7 concludes that:

8 (a) Knowledge of the health care information would be injurious to
9 the health of the patient;

10 (b) Knowledge of the health care information could reasonably be
11 expected to lead to the patient's identification of an individual who
12 provided the information in confidence and under circumstances in which
13 confidentiality was appropriate;

14 (c) Knowledge of the health care information could reasonably be
15 expected to cause danger to the life or safety of any individual;

16 (d) The health care information was compiled and is used solely for
17 litigation, quality assurance, peer review, or administrative purposes;
18 or

19 (e) Access to the health care information is otherwise prohibited
20 by law.

21 (2) If a health care provider denies a request for examination and
22 copying under this section, the provider, to the extent possible, shall
23 segregate health care information for which access has been denied
24 under subsection (1) of this section from information for which access
25 cannot be denied and permit the patient to examine or copy the
26 disclosable information.

27 (3) If a health care provider denies a patient's request for
28 examination and copying, in whole or in part, under subsection (1) (a)
29 or (c) of this section, the provider shall permit examination and

1 copying of the record by another health care provider, selected by the
2 patient, who is licensed, certified, registered, or otherwise
3 authorized under the laws of this state to treat the patient for the
4 same condition as the health care provider denying the request. The
5 health care provider denying the request shall inform the patient of
6 the patient's right to select another health care provider under this
7 subsection. The patient shall be responsible for arranging for
8 compensation of the other health care provider so selected.

9 "ARTICLE IV

10 CORRECTION AND AMENDMENT OF RECORD"

11 NEW SECTION. **Sec. 401.** REQUEST FOR CORRECTION OR AMENDMENT. (1)

12 For purposes of accuracy or completeness, a patient may request in
13 writing that a health care provider correct or amend its record of the
14 patient's health care information to which a patient has access under
15 section 301 of this act.

16 (2) As promptly as required under the circumstances, but no later
17 than ten days after receiving a request from a patient to correct or
18 amend its record of the patient's health care information, the health
19 care provider shall:

20 (a) Make the requested correction or amendment and inform the
21 patient of the action;

22 (b) Inform the patient if the record no longer exists or cannot be
23 found;

24 (c) If the health care provider does not maintain the record,
25 inform the patient and provide the patient with the name and address,
26 if known, of the person who maintains the record;

27 (d) If the record is in use or unusual circumstances have delayed
28 the handling of the correction or amendment request, inform the patient

1 and specify in writing, the earliest date, not later than twenty-one
2 days after receiving the request, when the correction or amendment will
3 be made or when the request will otherwise be disposed of; or

4 (e) Inform the patient in writing of the provider's refusal to
5 correct or amend the record as requested and the patient's right to add
6 a statement of disagreement.

7 NEW SECTION. **Sec. 402.** PROCEDURE FOR ADDING CORRECTION OR
8 AMENDMENT OR STATEMENT OF DISAGREEMENT. (1) In making a correction or
9 amendment, the health care provider shall:

10 (a) Add the amending information as a part of the health record;
11 and

12 (b) Mark the challenged entries as corrected or amended entries and
13 indicate the place in the record where the corrected or amended
14 information is located, in a manner practicable under the
15 circumstances.

16 (2) If the health care provider maintaining the record of the
17 patient's health care information refuses to make the patient's
18 proposed correction or amendment, the provider shall:

19 (a) Permit the patient to file as a part of the record of the
20 patient's health care information a concise statement of the correction
21 or amendment requested and the reasons therefor; and

22 (b) Mark the challenged entry to indicate that the patient claims
23 the entry is inaccurate or incomplete and indicate the place in the
24 record where the statement of disagreement is located, in a manner
25 practicable under the circumstances.

26 ARTICLE V

27 NOTICE OF INFORMATION PRACTICES

1 NEW SECTION. **Sec. 501.** CONTENT AND DISSEMINATION OF NOTICE. (1)

2 A health care provider who provides health care at a health care
3 facility that the provider operates and who maintains a record of a
4 patient's health care information shall create a "notice of information
5 practices" that contains substantially the following:

6 NOTICE

7 "We keep a record of the health care services we provide you. You
8 may ask us to see and copy that record. You may also ask us to
9 correct that record. We will not disclose your record to others
10 unless you direct us to do so or unless the law authorizes or
11 compels us to do so. You may see your record or get more
12 information about it at"

13 (2) The health care provider shall place a copy of the notice of
14 information practices in a conspicuous place in the health care
15 facility, on a consent form or with a billing or other notice provided
16 to the patient.

17 ARTICLE VI

18 PERSONS AUTHORIZED TO ACT FOR PATIENT

19 NEW SECTION. **Sec. 601.** HEALTH CARE REPRESENTATIVES. (1) A person
20 authorized to consent to health care for another may exercise the
21 rights of that person under this chapter to the extent necessary to
22 effectuate the terms or purposes of the grant of authority. If the
23 patient is a minor and is authorized to consent to health care without
24 parental consent under federal and state law, only the minor may
25 exercise the rights of a patient under this chapter as to information
26 pertaining to health care to which the minor lawfully consented. In

1 cases where parental consent is required, a health care provider may
2 rely, without incurring any civil or criminal liability for such
3 reliance, on the representation of a parent that he or she is
4 authorized to consent to health care for the minor patient regardless
5 of whether:

6 (a) The parents are married, unmarried, or separated at the time of
7 the representation;

8 (b) The consenting parent is, or is not, a custodial parent of the
9 minor;

10 (c) The giving of consent by a parent is, or is not, full
11 performance of any agreement between the parents, or of any order or
12 decree in any action entered pursuant to chapter 26.09 RCW.

13 (2) A person authorized to act for a patient shall act in good
14 faith to represent the best interests of the patient.

15 NEW SECTION. **Sec. 602.** REPRESENTATIVE OF DECEASED PATIENT. A
16 personal representative of a deceased patient may exercise all of the
17 deceased patient's rights under this chapter. If there is no personal
18 representative, or upon discharge of the personal representative, a
19 deceased patient's rights under this chapter may be exercised by
20 persons who would have been authorized to make health care decisions
21 for the deceased patient when the patient was living under RCW
22 7.70.065.

23 ARTICLE VII

24 SECURITY SAFEGUARDS AND RECORD RETENTION

25 NEW SECTION. **Sec. 701.** DUTY TO ADOPT SECURITY SAFEGUARDS. A
26 health care provider shall effect reasonable safeguards for the
27 security of all health care information it maintains.

1 imposed by federal or state health care payment programs or federal or
2 state law.

3 (2) This chapter does not modify the terms and conditions of
4 disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, 70.39,
5 70.96A, 71.05, and 71.34 RCW and rules adopted under these provisions.

6 NEW SECTION. **Sec. 902.** A new section is added to chapter 42.17
7 RCW to read as follows:

8 FREEDOM OF INFORMATION ACT. Chapter 70.-- RCW (sections 101
9 through 901 of this act) applies to public inspection and copying of
10 health care information of patients.

11 NEW SECTION. **Sec. 903.** UNIFORMITY OF APPLICATION AND
12 CONSTRUCTION. This act shall be applied and construed to effectuate
13 its general purpose to make uniform the law with respect to the subject
14 of this act among states enacting it.

15 NEW SECTION. **Sec. 904.** SHORT TITLE. This act may be cited as the
16 uniform health care information act.

17 NEW SECTION. **Sec. 905.** SEVERABILITY. If any provision of this
18 act or its application to any person or circumstance is held invalid,
19 the remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 906.** CAPTIONS. As used in this act, captions
22 constitute no part of the law.

23 NEW SECTION. **Sec. 907.** LEGISLATIVE DIRECTIVE. Sections 101
24 through 901 of this act shall constitute a new chapter in Title 70 RCW.