

1 **SB 6116 - H AMD 425**

2 By Representatives Mulliken and others

3 Strike everything after the enacting clause and insert the
4 following:

1 "NEW SECTION. **Sec. 1.** A new section is added to chapter 70.96A
2 RCW to read as follows:

3 (1) Any provider of treatment in an approved inpatient treatment
4 program who provides treatment beyond an initial assessment, to a minor
5 under RCW 70.96A.095(1) shall provide notice of the treatment to the
6 minor's parents. The notice shall be made within forty-eight hours of
7 the first date of treatment after the initial assessment, excluding
8 Saturdays, Sundays, and holidays, and shall contain the same
9 information as required under RCW 71.34.030(2)(b).

10 The provider shall provide notice only if (a) the minor signs a
11 written consent authorizing the disclosure in accordance with sections
12 523 and 527 of the public health services act, 42 U.S.C. Sec. 290dd-3,
13 290ee-3, as implemented by 42 C.F.R. Sec. 2.31 (1994) or (b) the
14 consent of the minor's parent, parents, custodian, or guardian is
15 unnecessary for the minor to receive treatment and the program or
16 facility director determines that the minor lacks capacity to make a
17 rational choice regarding consenting to disclosure.

18 (2) Any provider of outpatient treatment who provides outpatient
19 treatment to a minor shall provide notice of the minor's request for
20 treatment to the minor's parents if (a) the minor signs a written
21 consent authorizing the disclosure in accordance with sections 523 and
22 527 of the public health services act, 42 U.S.C. Sec. 290dd-3, 290ee-3,
23 as implemented by 42 C.F.R. Sec. 2.31 (1994) or (b) the program or
24 facility director determines that the minor lacks capacity to make a
25 rational choice regarding consenting to disclosure. The notice shall
26 be made within seven days of the request for treatment, excluding

1 Saturdays, Sundays, and holidays, and shall contain the same
2 information as required under RCW 71.34.030(2)(b).

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 71.34 RCW
4 to read as follows:

5 (1) Any provider of treatment at an inpatient evaluation and
6 treatment facility who provides treatment beyond an initial assessment
7 to a minor under RCW 71.34.030(1) shall provide notice of the request
8 for treatment to the minor's parents. The notice shall be made within
9 forty-eight hours of the request for treatment, excluding Saturdays,
10 Sundays, and holidays, and shall contain the same information as
11 required under RCW 71.34.030(2)(b).

12 (2) Any provider of outpatient treatment shall provide notice of
13 the request for treatment beyond an initial assessment to the minor's
14 parents. The notice shall be made within seven days of the request for
15 treatment, excluding Saturdays, Sundays, and holidays, and shall
16 contain the same information as required under RCW 71.34.030(2)(b).

17 **Sec. 3.** RCW 70.24.105 and 1994 c 72 s 1 are each amended to read
18 as follows:

19 (1) No person may disclose or be compelled to disclose the identity
20 of any person who has investigated, considered, or requested a test or
21 treatment for a sexually transmitted disease, except as authorized by
22 this chapter.

23 (2) No person may disclose or be compelled to disclose the identity
24 of any person upon whom an HIV antibody test is performed, or the
25 results of such a test, nor may the result of a test for any other
26 sexually transmitted disease when it is positive be disclosed. This
27 protection against disclosure of test subject, diagnosis, or treatment
28 also applies to any information relating to diagnosis of or treatment
29 for HIV infection and for any other confirmed sexually transmitted
30 disease. The following persons, however, may receive such information:

31 (a) The subject of the test or the subject's legal representative
32 for health care decisions in accordance with RCW 7.70.065, with the
33 exception of such a representative of a minor child over fourteen years
34 of age and otherwise competent when the minor seeks testing without
35 parent involvement. Test results must be available to a parent or

1 legal guardian if the parent or legal guardian is present at the time
2 of testing;

3 (b) Any person who secures a specific release of test results or
4 information relating to HIV or confirmed diagnosis of or treatment for
5 any other sexually transmitted disease executed by the subject or the
6 subject's legal representative for health care decisions in accordance
7 with RCW 7.70.065, with the exception of such a representative of a
8 minor child over fourteen years of age and otherwise competent when the
9 minor seeks testing without parent involvement. Test results must be
10 available to a parent or legal guardian if the parent or legal guardian
11 is present at the time of testing;

12 (c) The state public health officer, a local public health officer,
13 or the centers for disease control of the United States public health
14 service in accordance with reporting requirements for a diagnosed case
15 of a sexually transmitted disease;

16 (d) A health facility or health care provider that procures,
17 processes, distributes, or uses: (i) A human body part, tissue, or
18 blood from a deceased person with respect to medical information
19 regarding that person; (ii) semen, including that provided prior to
20 March 23, 1988, for the purpose of artificial insemination; or (iii)
21 blood specimens;

22 (e) Any state or local public health officer conducting an
23 investigation pursuant to RCW 70.24.024, provided that such record was
24 obtained by means of court ordered HIV testing pursuant to RCW
25 70.24.340 or 70.24.024;

26 (f) A person allowed access to the record by a court order granted
27 after application showing good cause therefor. In assessing good
28 cause, the court shall weigh the public interest and the need for
29 disclosure against the injury to the patient, to the physician-patient
30 relationship, and to the treatment services. Upon the granting of the
31 order, the court, in determining the extent to which any disclosure of
32 all or any part of the record of any such test is necessary, shall
33 impose appropriate safeguards against unauthorized disclosure. An
34 order authorizing disclosure shall: (i) Limit disclosure to those
35 parts of the patient's record deemed essential to fulfill the objective
36 for which the order was granted; (ii) limit disclosure to those persons
37 whose need for information is the basis for the order; and (iii)
38 include any other appropriate measures to keep disclosure to a minimum

1 for the protection of the patient, the physician-patient relationship,
2 and the treatment services, including but not limited to the written
3 statement set forth in subsection (5) of this section;

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

10 (h) A law enforcement officer, fire fighter, health care provider,
11 health care facility staff person, or other persons as defined by the
12 board in rule pursuant to RCW 70.24.340(4), who has requested a test of
13 a person whose bodily fluids he or she has been substantially exposed
14 to, pursuant to RCW 70.24.340(4), if a state or local public health
15 officer performs the test;

16 (i) Claims management personnel employed by or associated with an
17 insurer, health care service contractor, health maintenance
18 organization, self-funded health plan, state-administered health care
19 claims payer, or any other payer of health care claims where such
20 disclosure is to be used solely for the prompt and accurate evaluation
21 and payment of medical or related claims. Information released under
22 this subsection shall be confidential and shall not be released or
23 available to persons who are not involved in handling or determining
24 medical claims payment; and

25 (j) A department of social and health services worker, a child
26 placing agency worker, or a guardian ad litem who is responsible for
27 making or reviewing placement or case-planning decisions or
28 recommendations to the court regarding a child, who is less than
29 fourteen years of age, has a sexually transmitted disease, and is in
30 the custody of the department of social and health services or a
31 licensed child placing agency; this information may also be received by
32 a person responsible for providing residential care for such a child
33 when the department of social and health services or a licensed child
34 placing agency determines that it is necessary for the provision of
35 child care services.

36 (3) No person to whom the results of a test for a sexually
37 transmitted disease have been disclosed pursuant to subsection (2) of

1 this section may disclose the test results to another person except as
2 authorized by that subsection.

3 (4) The release of sexually transmitted disease information
4 regarding an offender, except as provided in subsection (2)(e) of this
5 section, shall be governed as follows:

6 (a) The sexually transmitted disease status of a department of
7 corrections offender shall be made available by department of
8 corrections health care providers to a department of corrections
9 superintendent or administrator as necessary for disease prevention or
10 control and for protection of the safety and security of the staff,
11 offenders, and the public. The information may be submitted to
12 transporting officers and receiving facilities, including facilities
13 that are not under the department of correction's jurisdiction.

14 (b) The sexually transmitted disease status of a person detained in
15 a jail shall be made available by the local public health officer to a
16 jail administrator as necessary for disease prevention or control and
17 for protection of the safety and security of the staff, offenders, and
18 the public. The information may be submitted to transporting officers
19 and receiving facilities.

20 (c) Information regarding a department of corrections offender's
21 sexually transmitted disease status is confidential and may be
22 disclosed by a correctional superintendent or administrator or local
23 jail administrator only as necessary for disease prevention or control
24 and for protection of the safety and security of the staff, offenders,
25 and the public. Unauthorized disclosure of this information to any
26 person may result in disciplinary action, in addition to any other
27 penalties as may be prescribed by law.

28 (5) Whenever disclosure is made pursuant to this section, except
29 for subsections (2)(a) and (6) of this section, it shall be accompanied
30 by a statement in writing which includes the following or substantially
31 similar language: "This information has been disclosed to you from
32 records whose confidentiality is protected by state law. State law
33 prohibits you from making any further disclosure of it without the
34 specific written consent of the person to whom it pertains, or as
35 otherwise permitted by state law. A general authorization for the
36 release of medical or other information is NOT sufficient for this
37 purpose." An oral disclosure shall be accompanied or followed by such
38 a notice within ten days.

1 (6) The requirements of this section shall not apply to the
2 customary methods utilized for the exchange of medical information
3 among health care providers in order to provide health care services to
4 the patient, nor shall they apply within health care facilities where
5 there is a need for access to confidential medical information to
6 fulfill professional duties.

7 (7) Upon request of the victim, disclosure of test results under
8 this section to victims of sexual offenses under chapter 9A.44 RCW
9 shall be made if the result is negative or positive. The county
10 prosecuting attorney shall notify the victim of the right to such
11 disclosure. Such disclosure shall be accompanied by appropriate
12 counseling, including information regarding follow-up testing.

13 **Sec. 4.** RCW 70.24.110 and 1988 c 206 s 912 are each amended to
14 read as follows:

15 A minor fourteen years of age or older who may have come in contact
16 with any sexually transmitted disease or suspected sexually transmitted
17 disease may give consent to the furnishing of hospital, medical and
18 surgical care related to the diagnosis or treatment of such disease.
19 Such consent shall not be subject to disaffirmance because of minority.
20 The consent of the parent, parents, or legal guardian of such minor
21 shall not be necessary to authorize hospital, medical and surgical care
22 related to such disease and such parent, parents, or legal guardian
23 shall not be liable for payment for any care rendered pursuant to this
24 section. However, a parent or legal guardian is entitled to receive
25 information regarding treatment provided and test results when the
26 parent or legal guardian accompanies the minor child for testing or
27 treatment services provided in this chapter."

28 **SB 6116** - H AMD

29 By Representative Mulliken

30 On page 1, line 1 of the title, after "authorization" strike the
31 remainder of the title and insert "reenacting and amending RCW
32 70.24.105 and 70.24.110; adding a new section to chapter 70.96A RCW;
33 adding a new section to chapter 71.34 RCW."

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