

CERTIFICATION OF ENROLLMENT  
**SUBSTITUTE SENATE BILL 5047**

Chapter 12, Laws of 1999

56th Legislature  
1999 Regular Session

MENTAL HEALTH PROFESSIONALS--CONFIDENTIALITY

EFFECTIVE DATE: 7/25/99

Passed by the Senate February 17, 1999

YEAS 49 NAYS 0

BRAD OWEN

**President of the Senate**

Passed by the House April 6, 1999

YEAS 92 NAYS 0

CLYDE BALLARD

**Speaker of the  
House of Representatives**

FRANK CHOPP

**Speaker of the  
House of Representatives**

Approved April 15, 1999

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5047** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

**Secretary**

FILED

April 15, 1999 - 3:44 p.m.

GARY LOCKE

**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5047**

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Passed Legislature - 1999 Regular Session

**State of Washington                      56th Legislature                      1999 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove and Costa)

Read first time 01/29/1999.

1            AN ACT Relating to the sharing of information received by mental  
2 health professionals performing services under chapter 10.77 RCW; and  
3 amending RCW 71.05.390.

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

5            **Sec. 1.** RCW 71.05.390 and 1998 c 297 s 22 are each amended to read  
6 as follows:

7            Except as provided in this section, the fact of admission and all  
8 information and records compiled, obtained, or maintained in the course  
9 of providing services to either voluntary or involuntary recipients of  
10 services at public or private agencies shall be confidential.

11            Information and records may be disclosed only:

12            (1) In communications between qualified professional persons to  
13 meet the requirements of this chapter, in the provision of services or  
14 appropriate referrals, or in the course of guardianship proceedings.  
15 The consent of the patient, or his or her guardian, shall be obtained  
16 before information or records may be disclosed by a professional person  
17 employed by a facility unless provided to a professional person: (a)  
18 Employed by the facility; (b) who has medical responsibility for the  
19 patient's care; (c) who is a county designated mental health

1 professional; (d) who is providing services under chapter 71.24 RCW;  
2 ((or)) (e) who is employed by a state or local correctional facility  
3 where the person is confined; or (f) who is providing evaluation,  
4 treatment, or follow-up services under chapter 10.77 RCW.

5 (2) When the communications regard the special needs of a patient  
6 and the necessary circumstances giving rise to such needs and the  
7 disclosure is made by a facility providing outpatient services to the  
8 operator of a care facility in which the patient resides.

9 (3) When the person receiving services, or his or her guardian,  
10 designates persons to whom information or records may be released, or  
11 if the person is a minor, when his or her parents make such  
12 designation.

13 (4) To the extent necessary for a recipient to make a claim, or for  
14 a claim to be made on behalf of a recipient for aid, insurance, or  
15 medical assistance to which he or she may be entitled.

16 (5) For either program evaluation or research, or both: PROVIDED,  
17 That the secretary ((of social and health services)) adopts rules for  
18 the conduct of the evaluation or research, or both. Such rules shall  
19 include, but need not be limited to, the requirement that all  
20 evaluators and researchers must sign an oath of confidentiality  
21 substantially as follows:

22 "As a condition of conducting evaluation or research concerning  
23 persons who have received services from (fill in the facility, agency,  
24 or person) I, . . . . ., agree not to divulge, publish, or  
25 otherwise make known to unauthorized persons or the public any  
26 information obtained in the course of such evaluation or research  
27 regarding persons who have received services such that the person who  
28 received such services is identifiable.

29 I recognize that unauthorized release of confidential information  
30 may subject me to civil liability under the provisions of state law.

31 /s/ . . . . . "

32 (6) To the courts as necessary to the administration of this  
33 chapter.

34 (7) To law enforcement officers, public health officers, or  
35 personnel of the department of corrections or the indeterminate  
36 sentence review board for persons who are the subject of the records  
37 and who are committed to the custody of the department of corrections  
38 or indeterminate sentence review board which information or records are

1 necessary to carry out the responsibilities of their office. Except  
2 for dissemination of information released pursuant to RCW 71.05.425 and  
3 4.24.550, regarding persons committed under this chapter under RCW  
4 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as  
5 defined in RCW 9.94A.030, the extent of information that may be  
6 released is limited as follows:

7 (a) Only the fact, place, and date of involuntary admission, the  
8 fact and date of discharge, and the last known address shall be  
9 disclosed upon request; and

10 (b) The law enforcement and public health officers or personnel of  
11 the department of corrections or indeterminate sentence review board  
12 shall be obligated to keep such information confidential in accordance  
13 with this chapter; and

14 (c) Additional information shall be disclosed only after giving  
15 notice to said person and his or her counsel and upon a showing of  
16 clear, cogent and convincing evidence that such information is  
17 necessary and that appropriate safeguards for strict confidentiality  
18 are and will be maintained. However, in the event the said person has  
19 escaped from custody, said notice prior to disclosure is not necessary  
20 and that the facility from which the person escaped shall include an  
21 evaluation as to whether the person is of danger to persons or property  
22 and has a propensity toward violence.

23 (8) To the attorney of the detained person.

24 (9) To the prosecuting attorney as necessary to carry out the  
25 responsibilities of the office under RCW 71.05.330(2) and  
26 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access  
27 to records regarding the committed person's treatment and prognosis,  
28 medication, behavior problems, and other records relevant to the issue  
29 of whether treatment less restrictive than inpatient treatment is in  
30 the best interest of the committed person or others. Information shall  
31 be disclosed only after giving notice to the committed person and the  
32 person's counsel.

33 (10) To appropriate law enforcement agencies and to a person, when  
34 the identity of the person is known to the public or private agency,  
35 whose health and safety has been threatened, or who is known to have  
36 been repeatedly harassed, by the patient. The person may designate a  
37 representative to receive the disclosure. The disclosure shall be made  
38 by the professional person in charge of the public or private agency or  
39 his or her designee and shall include the dates of admission,

1 discharge, authorized or unauthorized absence from the agency's  
2 facility, and only such other information that is pertinent to the  
3 threat or harassment. The decision to disclose or not shall not result  
4 in civil liability for the agency or its employees so long as the  
5 decision was reached in good faith and without gross negligence.

6 (11) To the persons designated in RCW 71.05.425 for the purposes  
7 described in that section.

8 (12) Civil liability and immunity for the release of information  
9 about a particular person who is committed to the department under RCW  
10 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as  
11 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

12 (13) To a patient's next of kin, guardian, or conservator, if any,  
13 in the event of death, as provided in RCW 71.05.400.

14 (14) To the department of health for the purposes of determining  
15 compliance with state or federal licensure, certification, or  
16 registration rules or laws. However, the information and records  
17 obtained under this subsection are exempt from public inspection and  
18 copying pursuant to chapter 42.17 RCW.

19 The fact of admission, as well as all records, files, evidence,  
20 findings, or orders made, prepared, collected, or maintained pursuant  
21 to this chapter shall not be admissible as evidence in any legal  
22 proceeding outside this chapter without the written consent of the  
23 person who was the subject of the proceeding except in a subsequent  
24 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)  
25 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter  
26 10.77 RCW due to incompetency to stand trial or in a civil commitment  
27 proceeding pursuant to chapter 71.09 RCW. The records and files  
28 maintained in any court proceeding pursuant to this chapter shall be  
29 confidential and available subsequent to such proceedings only to the  
30 person who was the subject of the proceeding or his or her attorney.  
31 In addition, the court may order the subsequent release or use of such  
32 records or files only upon good cause shown if the court finds that  
33 appropriate safeguards for strict confidentiality are and will be  
34 maintained.

Passed the Senate February 17, 1999.

Passed the House April 6, 1999.

Approved by the Governor April 15, 1999.

Filed in Office of Secretary of State April 15, 1999.