
SUBSTITUTE HOUSE BILL 2316

State of Washington 62nd Legislature 2012 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Hinkle, and Green)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to disclosure of health care information; amending
2 RCW 70.02.010, 70.02.020, 70.02.050, 71.05.660, 71.05.680, 71.05.690,
3 and 71.24.035; adding new sections to chapter 70.02 RCW; repealing RCW
4 70.24.105, 71.05.390, 71.05.640, 71.05.385, 71.05.420, 71.05.440,
5 71.05.427, 71.05.510, 71.34.340, 71.34.345, and 71.34.350; prescribing
6 penalties; and providing an effective date.

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

8 **Sec. 1.** RCW 70.02.010 and 2006 c 235 s 2 are each amended to read
9 as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

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

15 (a) Statutory, regulatory, fiscal, medical, or scientific
16 standards;

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

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

1 (2) "Directory information" means information disclosing the
2 presence, and for the purpose of identification, the name, location
3 within a health care facility, and the general health condition of a
4 particular patient who is a patient in a health care facility or who is
5 currently receiving emergency health care in a health care facility.

6 (3) "Federal, state, or local law enforcement authorities" means an
7 officer of any agency or authority in the United States, a state, a
8 tribe, a territory, or a political subdivision of a state, a tribe, or
9 a territory who is empowered by law to: (a) Investigate or conduct an
10 official inquiry into a potential criminal violation of law; or (b)
11 prosecute or otherwise conduct a criminal proceeding arising from an
12 alleged violation of law.

13 (4) "General health condition" means the patient's health status
14 described in terms of "critical," "poor," "fair," "good," "excellent,"
15 or terms denoting similar conditions.

16 (5) "Health care" means any care, service, or procedure provided by
17 a health care provider:

18 (a) To diagnose, treat, or maintain a patient's physical or mental
19 condition; or

20 (b) That affects the structure or any function of the human body.

21 (6) "Health care facility" means a hospital, clinic, nursing home,
22 laboratory, office, or similar place where a health care provider
23 provides health care to patients.

24 (7) "Health care information" means any information, whether oral
25 or recorded in any form or medium, that identifies or can readily be
26 associated with the identity of a patient and directly relates to the
27 patient's health care, including a patient's deoxyribonucleic acid and
28 identified sequence of chemical base pairs. The term includes any
29 required accounting of disclosures of health care information.

30 (8) "Health care operations" means any of the following activities
31 of a health care provider, health care facility, or third-party payor
32 to the extent that the activities are related to functions that make an
33 entity a health care provider, a health care facility, or a third-party
34 payor:

35 (a) Conducting: Quality assessment and improvement activities,
36 including outcomes evaluation and development of clinical guidelines,
37 if the obtaining of generalizable knowledge is not the primary purpose
38 of any studies resulting from such activities; population-based

1 activities relating to improving health or reducing health care costs,
2 protocol development, case management and care coordination, contacting
3 of health care providers and patients with information about treatment
4 alternatives; and related functions that do not include treatment;

5 (b) Reviewing the competence or qualifications of health care
6 professionals, evaluating practitioner and provider performance and
7 third-party payor performance, conducting training programs in which
8 students, trainees, or practitioners in areas of health care learn
9 under supervision to practice or improve their skills as health care
10 providers, training of nonhealth care professionals, accreditation,
11 certification, licensing, or credentialing activities;

12 (c) Underwriting, premium rating, and other activities relating to
13 the creation, renewal, or replacement of a contract of health insurance
14 or health benefits, and ceding, securing, or placing a contract for
15 reinsurance of risk relating to claims for health care, including stop-
16 loss insurance and excess of loss insurance, if any applicable legal
17 requirements are met;

18 (d) Conducting or arranging for medical review, legal services, and
19 auditing functions, including fraud and abuse detection and compliance
20 programs;

21 (e) Business planning and development, such as conducting cost-
22 management and planning-related analyses related to managing and
23 operating the health care facility or third-party payor, including
24 formulary development and administration, development, or improvement
25 of methods of payment or coverage policies; and

26 (f) Business management and general administrative activities of
27 the health care facility, health care provider, or third-party payor
28 including, but not limited to:

29 (i) Management activities relating to implementation of and
30 compliance with the requirements of this chapter;

31 (ii) Customer service, including the provision of data analyses for
32 policy holders, plan sponsors, or other customers, provided that health
33 care information is not disclosed to such policy holder, plan sponsor,
34 or customer;

35 (iii) Resolution of internal grievances;

36 (iv) The sale, transfer, merger, or consolidation of all or part of
37 a health care provider, health care facility, or third-party payor with
38 another health care provider, health care facility, or third-party

1 payor or an entity that following such activity will become a health
2 care provider, health care facility, or third-party payor, and due
3 diligence related to such activity; and

4 (v) Consistent with applicable legal requirements, creating
5 deidentified health care information or a limited dataset and fund-
6 raising for the benefit of the health care provider, health care
7 facility, or third-party payor.

8 (9) "Health care provider" means a person who is licensed,
9 certified, registered, or otherwise authorized by the law of this state
10 to provide health care in the ordinary course of business or practice
11 of a profession.

12 (10) "Information and records related to mental health services"
13 means a type of health care information that relates to all information
14 and records, including mental health treatment records, compiled,
15 obtained, or maintained in the course of providing services by a mental
16 health service provider, as defined in RCW 71.05.020. This may include
17 documents of legal proceedings under chapter 71.05, 71.34, or 10.77
18 RCW, or somatic health care information.

19 (11) "Information and records related to sexually transmitted
20 diseases" means a type of health care information that relates to the
21 identity of any person upon whom an HIV antibody test or other sexually
22 transmitted infection test is performed, the results of such tests, and
23 any information relating to diagnosis of or treatment for any confirmed
24 sexually transmitted infections.

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

30 ~~((+11))~~ (13) "Maintain," as related to health care information,
31 means to hold, possess, preserve, retain, store, or control that
32 information.

33 ~~((+12))~~ (14) "Mental health service provider" means a public or
34 private agency that provides services to persons with mental disorders
35 as defined under RCW 71.34.020 and receives funding from public
36 sources. This includes evaluation and treatment facilities as defined
37 in RCW 71.34.020, community mental health service delivery systems, or

1 community mental health programs, as defined in RCW 71.24.025, and
2 facilities conducting competency evaluations and restoration under
3 chapter 10.77 RCW.

4 (15) "Mental health treatment records" include registration
5 records, as defined in RCW 71.05.020, and all other records concerning
6 persons who are receiving or who at any time have received services for
7 mental illness, which are maintained by the department, by regional
8 support networks and their staff, and by treatment facilities. "Mental
9 health treatment records" include mental health information contained
10 in a medical bill including, but not limited to, mental health drugs,
11 a mental health diagnosis, provider name, and dates of service stemming
12 from a medical service. "Mental health treatment records" do not
13 include notes or records maintained for personal use by a person
14 providing treatment services for the department, regional support
15 networks, or a treatment facility if the notes or records are not
16 available to others.

17 (16) "Patient" means an individual who receives or has received
18 health care. The term includes a deceased individual who has received
19 health care.

20 ~~((+13))~~ (17) "Payment" means:

21 (a) The activities undertaken by:

22 (i) A third-party payor to obtain premiums or to determine or
23 fulfill its responsibility for coverage and provision of benefits by
24 the third-party payor; or

25 (ii) A health care provider, health care facility, or third-party
26 payor, to obtain or provide reimbursement for the provision of health
27 care; and

28 (b) The activities in (a) of this subsection that relate to the
29 patient to whom health care is provided and that include, but are not
30 limited to:

31 (i) Determinations of eligibility or coverage, including
32 coordination of benefits or the determination of cost-sharing amounts,
33 and adjudication or subrogation of health benefit claims;

34 (ii) Risk adjusting amounts due based on enrollee health status and
35 demographic characteristics;

36 (iii) Billing, claims management, collection activities, obtaining
37 payment under a contract for reinsurance, including stop-loss insurance
38 and excess of loss insurance, and related health care data processing;

1 (iv) Review of health care services with respect to medical
2 necessity, coverage under a health plan, appropriateness of care, or
3 justification of charges;

4 (v) Utilization review activities, including precertification and
5 preauthorization of services, and concurrent and retrospective review
6 of services; and

7 (vi) Disclosure to consumer reporting agencies of any of the
8 following health care information relating to collection of premiums or
9 reimbursement:

10 (A) Name and address;

11 (B) Date of birth;

12 (C) Social security number;

13 (D) Payment history;

14 (E) Account number; and

15 (F) Name and address of the health care provider, health care
16 facility, and/or third-party payor.

17 (~~(14)~~) (18) "Person" means an individual, corporation, business
18 trust, estate, trust, partnership, association, joint venture,
19 government, governmental subdivision or agency, or any other legal or
20 commercial entity.

21 (~~(15)~~) (19) "Reasonable fee" means the charges for duplicating or
22 searching the record, but shall not exceed sixty-five cents per page
23 for the first thirty pages and fifty cents per page for all other
24 pages. In addition, a clerical fee for searching and handling may be
25 charged not to exceed fifteen dollars. These amounts shall be adjusted
26 biennially in accordance with changes in the consumer price index, all
27 consumers, for Seattle-Tacoma metropolitan statistical area as
28 determined by the secretary of health. However, where editing of
29 records by a health care provider is required by statute and is done by
30 the provider personally, the fee may be the usual and customary charge
31 for a basic office visit.

32 (~~(16)~~) (20) "Sexually transmitted infection" or "sexually
33 transmitted disease" has the same meaning as "sexually transmitted
34 disease" in RCW 70.24.017.

35 (21) "Third-party payor" means an insurer regulated under Title 48
36 RCW authorized to transact business in this state or other
37 jurisdiction, including a health care service contractor, and health

1 maintenance organization; or an employee welfare benefit plan; or a
2 state or federal health benefit program.

3 ((+17)) (22) "Treatment" means the provision, coordination, or
4 management of health care and related services by one or more health
5 care providers or health care facilities, including the coordination or
6 management of health care by a health care provider or health care
7 facility with a third party; consultation between health care providers
8 or health care facilities relating to a patient; or the referral of a
9 patient for health care from one health care provider or health care
10 facility to another.

11 **Sec. 2.** RCW 70.02.020 and 2005 c 468 s 2 are each amended to read
12 as follows:

13 (1) Except as authorized ((in RCW 70.02.050)) elsewhere in this
14 chapter, a health care provider, an individual who assists a health
15 care provider in the delivery of health care, or an agent and employee
16 of a health care provider may not disclose health care information
17 about a patient to any other person without the patient's written
18 authorization. A disclosure made under a patient's written
19 authorization must conform to the authorization.

20 (2) A patient has a right to receive an accounting of disclosures
21 of health care information made by a health care provider or a health
22 care facility in the six years before the date on which the accounting
23 is requested, except for disclosures:

- 24 (a) To carry out treatment, payment, and health care operations;
25 (b) To the patient of health care information about him or her;
26 (c) Incident to a use or disclosure that is otherwise permitted or
27 required;
28 (d) Pursuant to an authorization where the patient authorized the
29 disclosure of health care information about himself or herself;
30 (e) Of directory information;
31 (f) To persons involved in the patient's care;
32 (g) For national security or intelligence purposes if an accounting
33 of disclosures is not permitted by law;
34 (h) To correctional institutions or law enforcement officials if an
35 accounting of disclosures is not permitted by law; ((and))
36 (i) Of a limited data set that excludes direct identifiers of the

1 patient or of relatives, employers, or household members of the
2 patient; and

3 (j) As provided in RCW 71.05.425.

4 **Sec. 3.** RCW 70.02.050 and 2007 c 156 s 12 are each amended to read
5 as follows:

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

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

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

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

23 (ii) Will take appropriate steps to protect the health care
24 information;

25 ~~(c) ((To any other health care provider or health care facility~~
26 ~~reasonably believed to have previously provided health care to the~~
27 ~~patient, to the extent necessary to provide health care to the patient,~~
28 ~~unless the patient has instructed the health care provider or health~~
29 ~~care facility in writing not to make the disclosure;~~

30 ~~(d) To any person if the health care provider or health care~~
31 ~~facility reasonably believes that disclosure will avoid or minimize an~~
32 ~~imminent danger to the health or safety of the patient or any other~~
33 ~~individual, however there is no obligation under this chapter on the~~
34 ~~part of the provider or facility to so disclose;~~

35 ~~(e) To immediate family members of the patient, including a~~
36 ~~patient's state registered domestic partner, or any other individual~~
37 ~~with whom the patient is known to have a close personal relationship,~~

1 ~~if made in accordance with good medical or other professional practice,~~
2 ~~unless the patient has instructed the health care provider or health~~
3 ~~care facility in writing not to make the disclosure;~~

4 ~~(f) To a health care provider or health care facility who is the~~
5 ~~successor in interest to the health care provider or health care~~
6 ~~facility maintaining the health care information;~~

7 ~~(g)) For use in a research project that an institutional review~~
8 ~~board has determined:~~

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

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

13 (iii) Contains reasonable safeguards to protect the information
14 from redisclosure;

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

18 (v) Contains procedures to remove or destroy at the earliest
19 opportunity, consistent with the purposes of the project, information
20 that would enable the patient to be identified, unless an institutional
21 review board authorizes retention of identifying information for
22 purposes of another research project;

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

25 ~~(i) Remove or destroy, at the earliest opportunity consistent with~~
26 ~~the purpose of the audit, information that would enable the patient to~~
27 ~~be identified; and~~

28 ~~(ii) Not to disclose the information further, except to accomplish~~
29 ~~the audit or report unlawful or improper conduct involving fraud in~~
30 ~~payment for health care by a health care provider or patient, or other~~
31 ~~unlawful conduct by the health care provider;~~

32 ~~(i)) (d) To an official of a penal or other custodial institution~~
33 ~~in which the patient is detained;~~

34 ~~((j) To provide directory information, unless the patient has~~
35 ~~instructed the health care provider or health care facility not to make~~
36 ~~the disclosure;~~

37 ~~(k) To fire, police, sheriff, or another public authority, that~~
38 ~~brought, or caused to be brought, the patient to the health care~~

1 ~~facility or health care provider if the disclosure is limited to the~~
2 ~~patient's name, residence, sex, age, occupation, condition, diagnosis,~~
3 ~~estimated or actual discharge date, or extent and location of injuries~~
4 ~~as determined by a physician, and whether the patient was conscious~~
5 ~~when admitted;~~

6 ~~(l) To federal, state, or local law enforcement authorities and the~~
7 ~~health care provider, health care facility, or third party payor~~
8 ~~believes in good faith that the health care information disclosed~~
9 ~~constitutes evidence of criminal conduct that occurred on the premises~~
10 ~~of the health care provider, health care facility, or third party~~
11 ~~payor;~~

12 ~~(m) To another health care provider, health care facility, or~~
13 ~~third party payor for the health care operations of the health care~~
14 ~~provider, health care facility, or third party payor that receives the~~
15 ~~information, if each entity has or had a relationship with the patient~~
16 ~~who is the subject of the health care information being requested, the~~
17 ~~health care information pertains to such relationship, and the~~
18 ~~disclosure is for the purposes described in RCW 70.02.010(8) (a) and~~
19 ~~(b);)) or~~

20 ~~((n))~~ (e) For payment, including information necessary for a
21 recipient to make a claim, or for a claim to be made on behalf of a
22 recipient for aid, insurance, or medical assistance to which he or she
23 may be entitled.

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
30 federal licensure, certification or registration rules or laws; or when
31 needed to protect the public health((+

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

34 ~~(c) To federal, state, or local law enforcement authorities, upon~~
35 ~~receipt of a written or oral request made to a nursing supervisor,~~
36 ~~administrator, or designated privacy official, in a case in which the~~
37 ~~patient is being treated or has been treated for a bullet wound,~~
38 ~~gunshot wound, powder burn, or other injury arising from or caused by~~

1 ~~the discharge of a firearm, or an injury caused by a knife, an ice~~
2 ~~pick, or any other sharp or pointed instrument which federal, state, or~~
3 ~~local law enforcement authorities reasonably believe to have been~~
4 ~~intentionally inflicted upon a person, or a blunt force injury that~~
5 ~~federal, state, or local law enforcement authorities reasonably believe~~
6 ~~resulted from a criminal act, the following information, if known:~~

7 ~~(i) The name of the patient;~~

8 ~~(ii) The patient's residence;~~

9 ~~(iii) The patient's sex;~~

10 ~~(iv) The patient's age;~~

11 ~~(v) The patient's condition;~~

12 ~~(vi) The patient's diagnosis, or extent and location of injuries as~~
13 ~~determined by a health care provider;~~

14 ~~(vii) Whether the patient was conscious when admitted;~~

15 ~~(viii) The name of the health care provider making the~~
16 ~~determination in (c)(v), (vi), and (vii) of this subsection;~~

17 ~~(ix) Whether the patient has been transferred to another facility;~~

18 and

19 ~~(x) The patient's discharge time and date;~~

20 ~~(d) To county coroners and medical examiners for the investigations~~
21 ~~of deaths;~~

22 ~~(e) Pursuant to compulsory process in accordance with RCW~~
23 ~~70.02.060.~~

24 ~~(3) All state or local agencies obtaining patient health care~~
25 ~~information pursuant to this section shall adopt rules establishing~~
26 ~~their record acquisition, retention, and security policies that are~~
27 ~~consistent with this chapter)).~~

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.02 RCW
29 to read as follows:

30 (1) A health care provider or health care facility may disclose
31 health care information, except for information and records related to
32 sexually transmitted diseases and information related to mental health
33 services, about a patient without the patient's authorization, to:

34 (a) Any other health care provider or health care facility
35 reasonably believed to have previously provided health care to the
36 patient, to the extent necessary to provide health care to the patient,

1 unless the patient has instructed the health care provider or health
2 care facility in writing not to make the disclosure;

3 (b) Any person if the health care provider or health care facility
4 reasonably believes that disclosure will avoid or minimize an imminent
5 danger to the health or safety of the patient or any other individual.
6 However, there is no obligation under this chapter on the part of the
7 provider or facility to so disclose;

8 (c) Immediate family members of the patient, including a patient's
9 state registered domestic partner, or any other individual with whom
10 the patient is known to have a close personal relationship, if made in
11 accordance with good medical or other professional practice, unless the
12 patient has instructed the health care provider or health care facility
13 in writing not to make the disclosure;

14 (d) A health care provider or health care facility who is the
15 successor in interest to the health care provider or health care
16 facility maintaining the health care information;

17 (e) A person who obtains information for purposes of an audit, if
18 that person agrees in writing to:

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

22 (ii) Not to disclose the information further, except to accomplish
23 the audit or report unlawful or improper conduct involving fraud in
24 payment for health care by a health care provider or patient, or other
25 unlawful conduct by the health care provider;

26 (f) Provide directory information, unless the patient has
27 instructed the health care provider or health care facility not to make
28 the disclosure;

29 (g) Fire, police, sheriff, or other public authority, that brought,
30 or caused to be brought, the patient to the health care facility or
31 health care provider if the disclosure is limited to the patient's
32 name, residence, sex, age, occupation, condition, diagnosis, estimated
33 or actual discharge date, or extent and location of injuries as
34 determined by a physician, and whether the patient was conscious when
35 admitted;

36 (h) Federal, state, or local law enforcement authorities and the
37 health care provider, health care facility, or third-party payor
38 believes in good faith that the health care information disclosed

1 constitutes evidence of criminal conduct that occurred on the premises
2 of the health care provider, health care facility, or third-party
3 payor; and

4 (i) Another health care provider, health care facility, or third-
5 party payor for the health care operations of the health care provider,
6 health care facility, or third-party payor that receives the
7 information, if each entity has or had a relationship with the patient
8 who is the subject of the health care information being requested, the
9 health care information pertains to such relationship, and the
10 disclosure is for the purposes described in RCW 70.02.010(8) (a) and
11 (b).

12 (2) A health care provider shall disclose health care information,
13 except for information related to sexually transmitted diseases and
14 information related to mental health services, about a patient without
15 the patient's authorization if the disclosure is:

16 (a) To federal, state, or local law enforcement authorities to the
17 extent the health care provider is required by law;

18 (b) To federal, state, or local law enforcement authorities, upon
19 receipt of a written or oral request made to a nursing supervisor,
20 administrator, or designated privacy official, in a case in which the
21 patient is being treated or has been treated for a bullet wound,
22 gunshot wound, powder burn, or other injury arising from or caused by
23 the discharge of a firearm, or an injury caused by a knife, an ice
24 pick, or any other sharp or pointed instrument which federal, state, or
25 local law enforcement authorities reasonably believe to have been
26 intentionally inflicted upon a person, or a blunt force injury that
27 federal, state, or local law enforcement authorities reasonably believe
28 resulted from a criminal act, the following information, if known:

- 29 (i) The name of the patient;
- 30 (ii) The patient's residence;
- 31 (iii) The patient's sex;
- 32 (iv) The patient's age;
- 33 (v) The patient's condition;
- 34 (vi) The patient's diagnosis, or extent and location of injuries as
35 determined by a health care provider;
- 36 (vii) Whether the patient was conscious when admitted;
- 37 (viii) The name of the health care provider making the
38 determination in (b)(v), (vi), and (vii) of this subsection;

- 1 (ix) Whether the patient has been transferred to another facility;
2 and
3 (x) The patient's discharge time and date;
4 (c) Pursuant to compulsory process in accordance with RCW
5 70.02.060.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.02 RCW
7 to read as follows:

8 A health care provider shall disclose health care information about
9 a patient without the patient's authorization if the disclosure is to
10 county coroners and medical examiners for the investigations of deaths.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.02 RCW
12 to read as follows:

13 (1) No person may disclose or be compelled to disclose the identity
14 of any person who has investigated, considered, or requested a test or
15 treatment for a sexually transmitted disease, except as authorized by
16 this section, RCW 70.02.050, or chapter 70.24 RCW.

17 (2) No person may disclose or be compelled to disclose information
18 and records related to sexually transmitted diseases. A person may
19 disclose information related to sexually transmitted diseases about a
20 patient without the patient's authorization, to the extent a recipient
21 needs to know the information, if the disclosure is to:

22 (a) The subject of the test or the subject's legal representative
23 for health care decisions in accordance with RCW 7.70.065, with the
24 exception of such a representative of a minor fourteen years of age or
25 over and otherwise competent;

26 (b) The state public health officer, a local public health officer,
27 or the centers for disease control of the United States public health
28 service in accordance with reporting requirements for a diagnosed case
29 of a sexually transmitted disease;

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

1 (d) Any state or local public health officer conducting an
2 investigation pursuant to RCW 70.24.024, so long as the record was
3 obtained by means of court-ordered HIV testing pursuant to RCW
4 70.24.340 or 70.24.024;

5 (e) A person allowed access to the record by a court order granted
6 after application showing good cause therefor. In assessing good
7 cause, the court shall weigh the public interest and the need for
8 disclosure against the injury to the patient, to the physician-patient
9 relationship, and to the treatment services. Upon the granting of the
10 order, the court, in determining the extent to which any disclosure of
11 all or any part of the record of any such test is necessary, shall
12 impose appropriate safeguards against unauthorized disclosure. An
13 order authorizing disclosure must: (i) Limit disclosure to those parts
14 of the patient's record deemed essential to fulfill the objective for
15 which the order was granted; (ii) limit disclosure to those persons
16 whose need for information is the basis for the order; and (iii)
17 include any other appropriate measures to keep disclosure to a minimum
18 for the protection of the patient, the physician-patient relationship,
19 and the treatment services;

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

26 (g) A law enforcement officer, firefighter, health care provider,
27 health care facility staff person, department of correction's staff
28 person, jail staff person, or other persons as defined by the board in
29 rule pursuant to RCW 70.24.340(4), who has requested a test of a person
30 whose bodily fluids he or she has been substantially exposed to,
31 pursuant to RCW 70.24.340(4), if a state or local public health officer
32 performs the test;

33 (h) Claims management personnel employed by or associated with an
34 insurer, health care service contractor, health maintenance
35 organization, self-funded health plan, state administered health care
36 claims payer, or any other payer of health care claims where such
37 disclosure is to be used solely for the prompt and accurate evaluation
38 and payment of medical or related claims. Information released under

1 this subsection must be confidential and may not be released or
2 available to persons who are not involved in handling or determining
3 medical claims payment; and

4 (i) A department of social and health services worker, a child
5 placing agency worker, or a guardian ad litem who is responsible for
6 making or reviewing placement or case-planning decisions or
7 recommendations to the court regarding a child, who is less than
8 fourteen years of age, has a sexually transmitted disease, and is in
9 the custody of the department of social and health services or a
10 licensed child placing agency. This information may also be received
11 by a person responsible for providing residential care for such a child
12 when the department of social and health services or a licensed child
13 placing agency determines that it is necessary for the provision of
14 child care services.

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

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

22 (a) The sexually transmitted disease status of a department of
23 corrections offender who has had a mandatory test conducted pursuant to
24 RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by
25 department of corrections health care providers and local public health
26 officers to the department of corrections health care administrator or
27 infection control coordinator of the facility in which the offender is
28 housed. The information made available to the health care
29 administrator or the infection control coordinator under this
30 subsection (4)(a) may be used only for disease prevention or control
31 and for protection of the safety and security of the staff, offenders,
32 and the public. The information may be submitted to transporting
33 officers and receiving facilities, including facilities that are not
34 under the department of corrections' jurisdiction according to the
35 provisions of (d) and (e) of this subsection.

36 (b) The sexually transmitted disease status of a person detained in
37 a jail who has had a mandatory test conducted pursuant to RCW
38 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the

1 local public health officer to a jail health care administrator or
2 infection control coordinator. The information made available to a
3 health care administrator under this subsection (4)(b) may be used only
4 for disease prevention or control and for protection of the safety and
5 security of the staff, offenders, detainees, and the public. The
6 information may be submitted to transporting officers and receiving
7 facilities according to the provisions of (d) and (e) of this
8 subsection.

9 (c) Information regarding the sexually transmitted disease status
10 of an offender or detained person is confidential and may be disclosed
11 by a correctional health care administrator or infection control
12 coordinator or local jail health care administrator or infection
13 control coordinator only as necessary for disease prevention or control
14 and for protection of the safety and security of the staff, offenders,
15 and the public. Unauthorized disclosure of this information to any
16 person may result in disciplinary action, in addition to the penalties
17 prescribed in RCW 70.24.080 or any other penalties as may be prescribed
18 by law.

19 (d) Notwithstanding the limitations on disclosure contained in (a),
20 (b), and (c) of this subsection, whenever any member of a jail staff or
21 department of corrections staff has been substantially exposed to the
22 bodily fluids of an offender or detained person, then the results of
23 any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or
24 70.24.370, must be immediately disclosed to the staff person in
25 accordance with the Washington Administrative Code rules governing
26 employees' occupational exposure to bloodborne pathogens. Disclosure
27 must be accompanied by appropriate counseling for the staff member,
28 including information regarding follow-up testing and treatment.
29 Disclosure must also include notice that subsequent disclosure of the
30 information in violation of this chapter or use of the information to
31 harass or discriminate against the offender or detainee may result in
32 disciplinary action, in addition to the penalties prescribed in RCW
33 70.24.080, and imposition of other penalties prescribed by law.

34 (e) The staff member must also be informed whether the offender or
35 detained person had any other communicable disease, as defined in RCW
36 72.09.251(3), when the staff person was substantially exposed to the
37 offender's or detainee's bodily fluids.

1 (f) The test results of voluntary and anonymous HIV testing or HIV-
2 related condition may not be disclosed to a staff person except as
3 provided in this section and RCW 70.02.050(1)(e) and 70.24.340(4). A
4 health care administrator or infection control coordinator may provide
5 the staff member with information about how to obtain the offender's or
6 detainee's test results under this section and RCW 70.02.050(1)(e) and
7 70.24.340(4).

8 (5) The requirements of this section do not apply to the customary
9 methods utilized for the exchange of medical information among health
10 care providers in order to provide health care services to the patient,
11 nor do they apply within health care facilities where there is a need
12 for access to confidential medical information to fulfill professional
13 duties.

14 (6) Upon request of the victim, disclosure of test results under
15 this section to victims of sexual offenses under chapter 9A.44 RCW must
16 be made if the result is negative or positive. The county prosecuting
17 attorney shall notify the victim of the right to such disclosure. The
18 disclosure must be accompanied by appropriate counseling, including
19 information regarding follow-up testing.

20 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.02 RCW
21 to read as follows:

22 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
23 70.96A.150, 74.09.295, sections 5 and 8 of this act, or pursuant to a
24 valid authorization under RCW 70.02.030, the fact of admission to a
25 provider for mental health services and all information and records
26 compiled, obtained, or maintained in the course of providing mental
27 health services to either voluntary or involuntary recipients of
28 services at public or private agencies must be confidential.

29 (2) Information and records related to mental health services,
30 other than those obtained through treatment under chapter 71.34 RCW,
31 may be disclosed only:

32 (a) In communications between qualified professional persons to
33 meet the requirements of chapter 71.05 RCW, in the provision of
34 services or appropriate referrals, or in the course of guardianship
35 proceedings if provided to a professional person:

36 (i) Employed by the facility;

37 (ii) Who has medical responsibility for the patient's care;

1 (iii) Who is a designated mental health professional;
2 (iv) Who is providing services under chapter 71.24 RCW;
3 (v) Who is employed by a state or local correctional facility where
4 the person is confined or supervised; or
5 (vi) Who is providing evaluation, treatment, or follow-up services
6 under chapter 10.77 RCW;

7 (b) When the communications regard the special needs of a patient
8 and the necessary circumstances giving rise to such needs and the
9 disclosure is made by a facility providing services to the operator of
10 a facility in which the patient resides or will reside;

11 (c)(i) When the person receiving services, or his or her guardian,
12 designates persons to whom information or records may be released, or
13 if the person is a minor, when his or her parents make such a
14 designation;

15 (ii) A public or private agency shall release to a person's next of
16 kin, attorney, personal representative, guardian, or conservator, if
17 any:

18 (A) The information that the person is presently a patient in the
19 facility or that the person is seriously physically ill;

20 (B) A statement evaluating the mental and physical condition of the
21 patient, and a statement of the probable duration of the patient's
22 confinement, if such information is requested by the next of kin,
23 attorney, personal representative, guardian, or conservator; and

24 (iii) Other information requested by the next of kin or attorney as
25 may be necessary to decide whether or not proceedings should be
26 instituted to appoint a guardian or conservator;

27 (d)(i) To the courts as necessary to the administration of this
28 chapter or to a court ordering an evaluation or treatment under chapter
29 10.77 RCW solely for the purpose of preventing the entry of any
30 evaluation or treatment order that is inconsistent with any order
31 entered under this chapter.

32 (ii) To a court or its designee in which a motion under chapter
33 10.77 RCW has been made for involuntary medication of a defendant for
34 the purpose of competency restoration.

35 (iii) Disclosure under this subsection is mandatory for the purpose
36 of the federal health insurance portability and accountability act;

37 (e)(i) When a mental health professional is requested by a
38 representative of a law enforcement or corrections agency, including a

1 police officer, sheriff, community corrections officer, a municipal
2 attorney, or prosecuting attorney to undertake an investigation or
3 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the
4 mental health professional shall, if requested to do so, advise the
5 representative in writing of the results of the investigation including
6 a statement of reasons for the decision to detain or release the person
7 investigated. The written report must be submitted within seventy-two
8 hours of the completion of the investigation or the request from the
9 law enforcement or corrections representative, whichever occurs later.

10 (ii) Disclosure under this subsection is mandatory for the purposes
11 of the federal health insurance portability and accountability act;

12 (f) To the attorney of the detained person;

13 (g) To the prosecuting attorney as necessary to carry out the
14 responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b),
15 and 71.05.335. The prosecutor must be provided access to records
16 regarding the committed person's treatment and prognosis, medication,
17 behavior problems, and other records relevant to the issue of whether
18 treatment less restrictive than inpatient treatment is in the best
19 interest of the committed person or others. Information must be
20 disclosed only after giving notice to the committed person and the
21 person's counsel;

22 (h)(i) To appropriate law enforcement agencies and to a person,
23 when the identity of the person is known to the public or private
24 agency, whose health and safety has been threatened, or who is known to
25 have been repeatedly harassed, by the patient. The person may
26 designate a representative to receive the disclosure. The disclosure
27 must be made by the professional person in charge of the public or
28 private agency or his or her designee and must include the dates of
29 commitment, admission, discharge, or release, authorized or
30 unauthorized absence from the agency's facility, and only any other
31 information that is pertinent to the threat or harassment. The agency
32 or its employees are not civilly liable for the decision to disclose or
33 not, so long as the decision was reached in good faith and without
34 gross negligence.

35 (ii) Disclosure under this subsection is mandatory for the purposes
36 of the federal health insurance portability and accountability act;

37 (i)(i) To appropriate corrections and law enforcement agencies all
38 necessary and relevant information in the event of a crisis or emergent

1 situation that poses a significant and imminent risk to the public.
2 The decision to disclose or not shall not result in civil liability for
3 the mental health service provider or its employees so long as the
4 decision was reached in good faith and without gross negligence.

5 (ii) Disclosure under this subsection is mandatory for the purposes
6 of the health insurance portability and accountability act;

7 (j) To the persons designated in RCW 71.05.425 for the purposes
8 described in those sections;

9 (k) Upon the death of a person. The person's next of kin, personal
10 representative, guardian, or conservator, if any, must be notified.
11 Next of kin who are of legal age and competent must be notified under
12 this section in the following order: Spouse, parents, children,
13 brothers and sisters, and other relatives according to the degree of
14 relation. Access to all records and information compiled, obtained, or
15 maintained in the course of providing services to a deceased patient
16 are governed by RCW 70.02.140;

17 (l) To mark headstones or otherwise memorialize patients interred
18 at state hospital cemeteries. The department of social and health
19 services shall make available the name, date of birth, and date of
20 death of patients buried in state hospital cemeteries fifty years after
21 the death of a patient;

22 (m) To law enforcement officers and to prosecuting attorneys as are
23 necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information
24 that may be released is limited as follows:

25 (i) Only the fact, place, and date of involuntary commitment, an
26 official copy of any order or orders of commitment, and an official
27 copy of any written or oral notice of ineligibility to possess a
28 firearm that was provided to the person pursuant to RCW 9.41.047(1),
29 shall be disclosed upon request;

30 (ii) The law enforcement and prosecuting attorneys may only release
31 the information obtained to the person's attorney as required by court
32 rule and to a jury or judge, if a jury is waived, that presides over
33 any trial at which the person is charged with violating RCW
34 9.41.040(2)(a)(ii);

35 (iii) Disclosure under this subsection is mandatory for the
36 purposes of the federal health insurance portability and accountability
37 act;

1 (n)(i) When a patient would otherwise be subject to the provisions
2 of this section and disclosure is necessary for the protection of the
3 patient or others due to his or her unauthorized disappearance from the
4 facility, and his or her whereabouts is unknown, notice of the
5 disappearance, along with relevant information, may be made to
6 relatives, the department of corrections when the person is under the
7 supervision of the department, and governmental law enforcement
8 agencies designated by the physician or psychiatric advanced registered
9 nurse practitioner in charge of the patient or the professional person
10 in charge of the facility, or his or her professional designee.

11 (ii) Except as otherwise provided in this chapter, the uniform
12 health care information act, chapter 70.02 RCW, applies to all records
13 and information compiled, obtained, or maintained in the course of
14 providing services;

15 (o) Pursuant to lawful order of a court;

16 (p) To qualified staff members of the department, to the director
17 of regional support networks, to resource management services
18 responsible for serving a patient, or to service providers designated
19 by resource management services as necessary to determine the progress
20 and adequacy of treatment and to determine whether the person should be
21 transferred to a less restrictive or more appropriate treatment
22 modality or facility. The information must remain confidential;

23 (q) Within the treatment facility where the patient is receiving
24 treatment, confidential information may be disclosed to persons
25 employed, serving in bona fide training programs, or participating in
26 supervised volunteer programs, at the facility when it is necessary to
27 perform their duties;

28 (r) Within the department as necessary to coordinate treatment for
29 mental illness, developmental disabilities, alcoholism, or drug abuse
30 of persons who are under the supervision of the department;

31 (s) To a licensed physician or psychiatric advanced registered
32 nurse practitioner who has determined that the life or health of the
33 person is in danger and that treatment without the information
34 contained in the treatment records could be injurious to the patient's
35 health. Disclosure must be limited to the portions of the records
36 necessary to meet the medical emergency;

37 (t) Consistent with the requirements of the federal health
38 information portability and accountability act, to a licensed mental

1 health professional, as defined in RCW 71.05.020, or a health care
2 professional licensed under chapter 18.71, 18.71A, 18.57, 18.57A,
3 18.79, or 18.36A RCW who is providing care to a person, or to whom a
4 person has been referred for evaluation or treatment, to assure
5 coordinated care and treatment of that person. Psychotherapy notes, as
6 defined in 45 C.F.R. Sec. 164.501, may not be released without
7 authorization of the person who is the subject of the request for
8 release of information;

9 (u) To administrative and office support staff designated to obtain
10 medical records for those licensed professionals listed in (j) of this
11 subsection;

12 (v) To a facility that is to receive a person who is involuntarily
13 committed under chapter 71.05 RCW, or upon transfer of the person from
14 one treatment facility to another. The release of records under this
15 subsection is limited to the treatment records required by law, a
16 record or summary of all somatic treatments, and a discharge summary.
17 The discharge summary may include a statement of the patient's problem,
18 the treatment goals, the type of treatment which has been provided, and
19 recommendation for future treatment, but may not include the patient's
20 complete treatment record;

21 (w) To the person's counsel or guardian ad litem, without
22 modification, at any time in order to prepare for involuntary
23 commitment or recommitment proceedings, reexaminations, appeals, or
24 other actions relating to detention, admission, commitment, or
25 patient's rights under chapter 71.05 RCW;

26 (x) To staff members of the protection and advocacy agency or to
27 staff members of a private, nonprofit corporation for the purpose of
28 protecting and advocating the rights of persons with mental disorders
29 or developmental disabilities. Resource management services may limit
30 the release of information to the name, birthdate, and county of
31 residence of the patient, information regarding whether the patient was
32 voluntarily admitted, or involuntarily committed, the date and place of
33 admission, placement, or commitment, the name and address of a guardian
34 of the patient, and the date and place of the guardian's appointment.
35 Any staff member who wishes to obtain additional information must
36 notify the patient's resource management services in writing of the
37 request and of the resource management services' right to object. The
38 staff member shall send the notice by mail to the guardian's address.

1 If the guardian does not object in writing within fifteen days after
2 the notice is mailed, the staff member may obtain the additional
3 information. If the guardian objects in writing within fifteen days
4 after the notice is mailed, the staff member may not obtain the
5 additional information;

6 (y) To all current treating providers of the patient with
7 prescriptive authority who have written a prescription for the patient
8 within the last twelve months. For purposes of coordinating health
9 care, the department may release without written authorization of the
10 patient, information acquired for billing and collection purposes as
11 described in RCW 70.02.050(1)(e). The department shall notify the
12 patient that billing and collection information has been released to
13 named providers, and provide the substance of the information released
14 and the dates of such release. The department may not release
15 counseling, inpatient psychiatric hospitalization, or drug and alcohol
16 treatment information without a signed written release from the client.

17 (3) Whenever federal law or federal regulations restrict the
18 release of information contained in the treatment records of any
19 patient who receives treatment for chemical dependency, the department
20 may restrict the release of the information as necessary to comply with
21 federal law and regulations.

22 (4) Civil liability and immunity for the release of information
23 about a particular person who is committed to the department of social
24 and health services under RCW 71.05.280(3) and 71.05.320(3)(c) after
25 dismissal of a sex offense as defined in RCW 9.94A.030, is governed by
26 RCW 4.24.550.

27 (5) The fact of admission to a provider of mental health services,
28 as well as all records, files, evidence, findings, or orders made,
29 prepared, collected, or maintained pursuant to chapter 71.05 RCW are
30 not admissible as evidence in any legal proceeding outside that chapter
31 without the written authorization of the person who was the subject of
32 the proceeding except as provided in section 11 of this act, in a
33 subsequent criminal prosecution of a person committed pursuant to RCW
34 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant
35 to chapter 10.77 RCW due to incompetency to stand trial, in a civil
36 commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of
37 a minor, a guardianship or dependency proceeding. The records and
38 files maintained in any court proceeding pursuant to chapter 71.05 RCW

1 must be confidential and available subsequent to such proceedings only
2 to the person who was the subject of the proceeding or his or her
3 attorney. In addition, the court may order the subsequent release or
4 use of such records or files only upon good cause shown if the court
5 finds that appropriate safeguards for strict confidentiality are and
6 will be maintained.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.02 RCW
8 to read as follows:

9 The fact of admission and all information and records related to
10 mental health services obtained through treatment under chapter 71.34
11 RCW is confidential. Confidential information may be disclosed only:

12 (1) In communications between mental health professionals to meet
13 the requirements of this chapter, in the provision of services to the
14 minor, or in making appropriate referrals;

15 (2) In the course of guardianship or dependency proceedings;

16 (3) To the minor, the minor's parent, and the minor's attorney,
17 subject to RCW 13.50.100;

18 (4) To the courts as necessary to the administration of this
19 chapter;

20 (5) To law enforcement officers or public health officers as
21 necessary to carry out the responsibilities of their office. However,
22 only the fact and date of admission, and the date of discharge, the
23 name and address of the treatment provider, if any, and the last known
24 address must be disclosed upon request;

25 (6) To law enforcement officers, public health officers, relatives,
26 and other governmental law enforcement agencies, if a minor has escaped
27 from custody, disappeared from an evaluation and treatment facility,
28 violated conditions of a less restrictive treatment order, or failed to
29 return from an authorized leave, and then only such information as may
30 be necessary to provide for public safety or to assist in the
31 apprehension of the minor. The officers are obligated to keep the
32 information confidential in accordance with this chapter;

33 (7) To appropriate law enforcement agencies, upon request, all
34 necessary and relevant information in the event of a crisis or emergent
35 situation that poses a significant and imminent risk to the public.
36 The mental health service provider or its employees are not civilly

1 liable for the decision to disclose or not, so long as the decision was
2 reached in good faith and without gross negligence;

3 (8) To appropriate law enforcement agencies and to a person, when
4 the identity of the person is known to the public or private agency,
5 whose health and safety has been threatened, or who is known to have
6 been repeatedly harassed, by the patient. The person may designate a
7 representative to receive the disclosure. The disclosure must be made
8 by the professional person in charge of the public or private agency or
9 his or her designee and must include the dates of admission, discharge,
10 authorized or unauthorized absence from the agency's facility, and only
11 any other information that is pertinent to the threat or harassment.
12 The agency or its employees are not civilly liable for the decision to
13 disclose or not, so long as the decision was reached in good faith and
14 without gross negligence;

15 (9) To a minor's next of kin, attorney, guardian, or conservator,
16 if any, the information that the minor is presently in the facility or
17 that the minor is seriously physically ill and a statement evaluating
18 the mental and physical condition of the minor as well as a statement
19 of the probable duration of the minor's confinement;

20 (10) Upon the death of a minor, to the minor's next of kin;

21 (11) To a facility in which the minor resides or will reside;

22 (12) To law enforcement officers and to prosecuting attorneys as
23 are necessary to enforce RCW 9.41.040(2)(a)(ii).

24 (a) The extent of information that may be released is limited as
25 follows:

26 (i) Only the fact, place, and date of involuntary commitment, an
27 official copy of any order or orders of commitment, and an official
28 copy of any written or oral notice of ineligibility to possess a
29 firearm that was provided to the person pursuant to RCW 9.41.047(1),
30 must be disclosed upon request;

31 (ii) The law enforcement and prosecuting attorneys may only release
32 the information obtained to the person's attorney as required by court
33 rule and to a jury or judge, if a jury is waived, that presides over
34 any trial at which the person is charged with violating RCW
35 9.41.040(2)(a)(ii);

36 (iii) Disclosure under this subsection is mandatory for the
37 purposes of the federal health insurance portability and accountability
38 act;

1 (b) This section may not be construed to prohibit the compilation
2 and publication of statistical data for use by government or
3 researchers under standards, including standards to assure maintenance
4 of confidentiality, set forth by the secretary. The fact of admission
5 and all information obtained pursuant to this chapter are not
6 admissible as evidence in any legal proceeding outside this chapter,
7 except guardianship or dependency, without the written consent of the
8 minor or the minor's parent;

9 (13) For the purpose of a correctional facility participating in
10 the postinstitutional medical assistance system supporting the
11 expedited medical determinations and medical suspensions as provided in
12 RCW 74.09.555 and 74.09.295.

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.02 RCW
14 to read as follows:

15 (1) Information related to mental health services delivered to a
16 person subject to chapter 9.94A or 9.95 RCW shall be released, upon
17 request, by a mental health service provider to department of
18 corrections personnel for whom the information is necessary to carry
19 out the responsibilities of their office. The information must be
20 provided only for the purpose of completing presentence investigations,
21 supervision of an incarcerated person, planning for and provision of
22 supervision of a person, or assessment of a person's risk to the
23 community. The request shall be in writing and shall not require the
24 consent of the subject of the records.

25 (2) The information to be released to the department of corrections
26 shall include all relevant records and reports, as defined by rule,
27 necessary for the department of corrections to carry out its duties,
28 including those records and reports identified in subsection (1) of
29 this section.

30 (3) The department shall, subject to available resources,
31 electronically, or by the most cost-effective means available, provide
32 the department of corrections with the names, last dates of services,
33 and addresses of specific regional support networks and mental health
34 service providers that delivered mental health services to a person
35 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
36 the departments.

1 (4) The department and the department of corrections, in
2 consultation with regional support networks, mental health service
3 providers as defined in RCW 70.02.010, mental health consumers, and
4 advocates for persons with mental illness, shall adopt rules to
5 implement the provisions of this section related to the type and scope
6 of information to be released. These rules shall:

7 (a) Enhance and facilitate the ability of the department of
8 corrections to carry out its responsibility of planning and ensuring
9 community protection with respect to persons subject to sentencing
10 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
11 disclosing information of persons who received mental health services
12 as a minor; and

13 (b) Establish requirements for the notification of persons under
14 the supervision of the department of corrections regarding the
15 provisions of this section.

16 (5) The information received by the department of corrections under
17 this section shall remain confidential and subject to the limitations
18 on disclosure outlined in this chapter, except as provided in RCW
19 72.09.585.

20 (6) No mental health service provider or individual employed by a
21 mental health service provider shall be held responsible for
22 information released to or used by the department of corrections under
23 the provisions of this section or rules adopted under this section.

24 (7) Whenever federal law or federal regulations restrict the
25 release of information contained in the treatment records of any
26 patient who receives treatment for alcoholism or drug dependency, the
27 release of the information may be restricted as necessary to comply
28 with federal law and regulations.

29 (8) This section does not modify the terms and conditions of
30 disclosure of information related to sexually transmitted diseases
31 under this chapter.

32 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.02 RCW
33 to read as follows:

34 (1)(a) A mental health service provider shall release to the
35 persons authorized under subsection (2) of this section, upon request:

36 (i) The fact, place, and date of an involuntary commitment, the

1 fact and date of discharge or release, and the last known address of a
2 person who has been committed under chapter 71.05 RCW.

3 (ii) Information related to mental health services, in the format
4 determined under subsection (9) of this section, concerning a person
5 who:

6 (A) Is currently committed to the custody or supervision of the
7 department of corrections or the indeterminate sentence review board
8 under chapter 9.94A or 9.95 RCW;

9 (B) Has been convicted or found not guilty by reason of insanity of
10 a serious violent offense; or

11 (C) Was charged with a serious violent offense and the charges were
12 dismissed under RCW 10.77.086.

13 (b) Legal counsel may release such information to the persons
14 authorized under subsection (2) of this section on behalf of the mental
15 health service provider, so long as nothing in this subsection requires
16 the disclosure of attorney work product or attorney-client privileged
17 information.

18 (2) The information subject to release under subsection (1) of this
19 section must be released to law enforcement officers, personnel of a
20 county or city jail, designated mental health professionals, public
21 health officers, therapeutic court personnel, or personnel of the
22 department of corrections, including the indeterminate sentence review
23 board and personnel assigned to perform board-related duties, when such
24 information is requested during the course of business and for the
25 purpose of carrying out the responsibilities of the requesting person's
26 office. No mental health service provider or person employed by a
27 mental health service provider, or its legal counsel, may be liable for
28 information released to or used under the provisions of this section or
29 rules adopted under this section except under RCW 71.05.680.

30 (3) A person who requests information under subsection (1)(a)(ii)
31 of this section must comply with the following restrictions:

32 (a) Information must be requested only for the purposes permitted
33 by this subsection and for the purpose of carrying out the
34 responsibilities of the requesting person's office. Appropriate
35 purposes for requesting information under this section include:

36 (i) Completing presentence investigations or risk assessment
37 reports;

38 (ii) Assessing a person's risk to the community;

1 (iii) Assessing a person's risk of harm to self or others when
2 confined in a city or county jail;

3 (iv) Planning for and provision of supervision of an offender,
4 including decisions related to sanctions for violations of conditions
5 of community supervision; and

6 (v) Responding to an offender's failure to report for department of
7 corrections supervision;

8 (b) Information may not be requested under this section unless the
9 requesting person has reasonable suspicion that the individual who is
10 the subject of the information:

11 (i) Has engaged in activity indicating that a crime or a violation
12 of community custody or parole has been committed or, based upon his or
13 her current or recent past behavior, is likely to be committed in the
14 near future; or

15 (ii) Is exhibiting signs of a deterioration in mental functioning
16 which may make the individual appropriate for civil commitment under
17 this chapter; and

18 (c) Any information received under this section must be held
19 confidential and subject to the limitations on disclosure outlined in
20 this chapter, except:

21 (i) The information may be shared with other persons who have the
22 right to request similar information under subsection (2) of this
23 section, solely for the purpose of coordinating activities related to
24 the individual who is the subject of the information in a manner
25 consistent with the official responsibilities of the persons involved;

26 (ii) The information may be shared with a prosecuting attorney
27 acting in an advisory capacity for a person who receives information
28 under this section. A prosecuting attorney under this subsection is
29 subject to the same restrictions and confidentiality limitations as the
30 person who requested the information; and

31 (iii) As provided in RCW 72.09.585.

32 (4) A request for information related to mental health services
33 under this section does not require the consent of the subject of the
34 records. The request must be provided in writing, except to the extent
35 authorized in subsection (5) of this section. A written request may
36 include requests made by e-mail or facsimile so long as the requesting
37 person is clearly identified. The request must specify the information
38 being requested.

1 (5) In the event of an emergency situation that poses a significant
2 risk to the public or the offender, a mental health service provider,
3 or its legal counsel, shall release information related to mental
4 health services delivered to the offender and, if known, information
5 regarding where the offender is likely to be found to the department of
6 corrections or law enforcement upon request. The initial request may
7 be written or oral. All oral requests must be subsequently confirmed
8 in writing. Information released in response to an oral request is
9 limited to a statement as to whether the offender is or is not being
10 treated by the mental health service provider and the address or
11 information about the location or whereabouts of the offender.

12 (6) Disclosure under this section to state or local law enforcement
13 authorities is mandatory for the purposes of the federal health
14 insurance portability and accountability act.

15 (7) Whenever federal law or federal regulations restrict the
16 release of information contained in the treatment records of any
17 patient who receives treatment for alcoholism or drug dependency, the
18 release of the information may be restricted as necessary to comply
19 with federal law and regulations.

20 (8) This section does not modify the terms and conditions of
21 disclosure of information related to sexually transmitted diseases
22 under chapter 70.24 RCW.

23 (9) In collaboration with interested organizations, the department
24 shall develop a standard form for requests for information related to
25 mental health services made under this section and a standard format
26 for information provided in response to the requests. Consistent with
27 the goals of the health information privacy provisions of the federal
28 health insurance portability and accountability act, in developing the
29 standard form for responsive information, the department shall design
30 the form in such a way that the information disclosed is limited to the
31 minimum necessary to serve the purpose for which the information is
32 requested.

33 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.02 RCW
34 to read as follows:

35 All state or local agencies obtaining patient health care
36 information pursuant to RCW 70.02.050 and sections 4 through 7 of this

1 act shall adopt rules establishing their record acquisition, retention,
2 and security policies that are consistent with this chapter.

3 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.02 RCW
4 to read as follows:

5 Whenever disclosure is made of information and records related to
6 sexually transmitted diseases pursuant to this chapter, except for RCW
7 70.02.050(1)(a) and section 7(2)(a) of this act, it must be accompanied
8 by a statement in writing which includes the following or substantially
9 similar language: "This information has been disclosed to you from
10 records whose confidentiality is protected by state law. State law
11 prohibits you from making any further disclosure of it without the
12 specific written authorization of the person to whom it pertains, or as
13 otherwise permitted by state law. A general authorization for the
14 release of medical or other information is NOT sufficient for this
15 purpose." An oral disclosure must be accompanied or followed by such
16 a notice within ten days.

17 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.02 RCW
18 to read as follows:

19 (1) Resource management services, as defined in chapter 71.24 RCW,
20 shall establish procedures to provide reasonable and timely access to
21 individual mental health treatment records. However, access may not be
22 denied at any time to records of all medications and somatic treatments
23 received by the person.

24 (2) Following discharge, a person who has received mental health
25 services has a right to a complete record of all medications and
26 somatic treatments prescribed during evaluation, admission, or
27 commitment and to a copy of the discharge summary prepared at the time
28 of his or her discharge. A reasonable and uniform charge for
29 reproduction may be assessed.

30 (3) Mental health treatment records may be modified prior to
31 inspection to protect the confidentiality of other patients or the
32 names of any other persons referred to in the record who gave
33 information on the condition that his or her identity remain
34 confidential. Entire documents may not be withheld to protect such
35 confidentiality.

1 (4) At the time of discharge research management services shall
2 inform all persons who have received mental health services of their
3 rights as provided in this chapter and RCW 71.05.620.

4 NEW SECTION. **Sec. 14.** A new section is added to chapter 70.02 RCW
5 to read as follows:

6 When disclosure of information and records related to mental
7 services pertaining to a minor, as defined in RCW 71.34.020, is made,
8 the date and circumstances under which the disclosure was made, the
9 name or names of the persons or agencies to whom such disclosure was
10 made and their relationship if any, to the minor, and the information
11 disclosed must be entered promptly in the minor's clinical record.

12 NEW SECTION. **Sec. 15.** A new section is added to chapter 70.02 RCW
13 to read as follows:

14 Any person who requests or obtains confidential information and
15 records related to mental health services pursuant to this chapter
16 under false pretenses is guilty of a gross misdemeanor.

17 NEW SECTION. **Sec. 16.** A new section is added to chapter 70.02 RCW
18 to read as follows:

19 The department of social and health services shall adopt rules
20 related to the disclosure of mental health treatment records in this
21 chapter.

22 NEW SECTION. **Sec. 17.** A new section is added to chapter 70.02 RCW
23 to read as follows:

24 In addition to any other information required to be released under
25 this chapter, the department of social and health services is
26 authorized, pursuant to RCW 4.24.550, to release relevant information
27 that is necessary to protect the public, concerning a specific person
28 committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal
29 of a sex offense as defined in RCW 9.94A.030.

30 **Sec. 18.** RCW 71.05.660 and 2009 c 217 s 9 are each amended to read
31 as follows:

32 Nothing in this chapter or chapter 70.02, 70.96A, (~~(71.05,)~~) 71.34,

1 or 70.96B RCW shall be construed to interfere with communications
2 between physicians, psychiatric advanced registered nurse
3 practitioners, or psychologists and patients and attorneys and clients.

4 **Sec. 19.** RCW 71.05.680 and 2005 c 504 s 713 are each amended to
5 read as follows:

6 Any person who requests or obtains confidential information
7 pursuant to RCW 71.05.620 (~~((through 71.05.690))~~) under false pretenses
8 shall be guilty of a gross misdemeanor.

9 **Sec. 20.** RCW 71.05.690 and 2005 c 504 s 714 are each amended to
10 read as follows:

11 The department shall adopt rules to implement RCW 71.05.620
12 (~~((through 71.05.680))~~).

13 **Sec. 21.** RCW 71.24.035 and 2011 c 148 s 4 are each amended to read
14 as follows:

15 (1) The department is designated as the state mental health
16 authority.

17 (2) The secretary shall provide for public, client, and licensed
18 service provider participation in developing the state mental health
19 program, developing contracts with regional support networks, and any
20 waiver request to the federal government under medicaid.

21 (3) The secretary shall provide for participation in developing the
22 state mental health program for children and other underserved
23 populations, by including representatives on any committee established
24 to provide oversight to the state mental health program.

25 (4) The secretary shall be designated as the regional support
26 network if the regional support network fails to meet state minimum
27 standards or refuses to exercise responsibilities under RCW 71.24.045,
28 until such time as a new regional support network is designated under
29 RCW 71.24.320.

30 (5) The secretary shall:

31 (a) Develop a biennial state mental health program that
32 incorporates regional biennial needs assessments and regional mental
33 health service plans and state services for adults and children with
34 mental illness. The secretary shall also develop a six-year state
35 mental health plan;

1 (b) Assure that any regional or county community mental health
2 program provides access to treatment for the region's residents,
3 including parents who are respondents in dependency cases, in the
4 following order of priority: (i) Persons with acute mental illness;
5 (ii) adults with chronic mental illness and children who are severely
6 emotionally disturbed; and (iii) persons who are seriously disturbed.
7 Such programs shall provide:

8 (A) Outpatient services;

9 (B) Emergency care services for twenty-four hours per day;

10 (C) Day treatment for persons with mental illness which includes
11 training in basic living and social skills, supported work, vocational
12 rehabilitation, and day activities. Such services may include
13 therapeutic treatment. In the case of a child, day treatment includes
14 age-appropriate basic living and social skills, educational and
15 prevocational services, day activities, and therapeutic treatment;

16 (D) Screening for patients being considered for admission to state
17 mental health facilities to determine the appropriateness of admission;

18 (E) Employment services, which may include supported employment,
19 transitional work, placement in competitive employment, and other work-
20 related services, that result in persons with mental illness becoming
21 engaged in meaningful and gainful full or part-time work. Other
22 sources of funding such as the division of vocational rehabilitation
23 may be utilized by the secretary to maximize federal funding and
24 provide for integration of services;

25 (F) Consultation and education services; and

26 (G) Community support services;

27 (c) Develop and adopt rules establishing state minimum standards
28 for the delivery of mental health services pursuant to RCW 71.24.037
29 including, but not limited to:

30 (i) Licensed service providers. These rules shall permit a county-
31 operated mental health program to be licensed as a service provider
32 subject to compliance with applicable statutes and rules. The
33 secretary shall provide for deeming of compliance with state minimum
34 standards for those entities accredited by recognized behavioral health
35 accrediting bodies recognized and having a current agreement with the
36 department;

37 (ii) Regional support networks; and

1 (iii) Inpatient services, evaluation and treatment services and
2 facilities under chapter 71.05 RCW, resource management services, and
3 community support services;

4 (d) Assure that the special needs of persons who are minorities,
5 elderly, disabled, children, low-income, and parents who are
6 respondents in dependency cases are met within the priorities
7 established in this section;

8 (e) Establish a standard contract or contracts, consistent with
9 state minimum standards, RCW 71.24.320 and 71.24.330, which shall be
10 used in contracting with regional support networks. The standard
11 contract shall include a maximum fund balance, which shall be
12 consistent with that required by federal regulations or waiver
13 stipulations;

14 (f) Establish, to the extent possible, a standardized auditing
15 procedure which minimizes paperwork requirements of regional support
16 networks and licensed service providers. The audit procedure shall
17 focus on the outcomes of service and not the processes for
18 accomplishing them;

19 (g) Develop and maintain an information system to be used by the
20 state and regional support networks that includes a tracking method
21 which allows the department and regional support networks to identify
22 mental health clients' participation in any mental health service or
23 public program on an immediate basis. The information system shall not
24 include individual patient's case history files. Confidentiality of
25 client information and records shall be maintained as provided in this
26 chapter and (~~in RCW 71.05.390, 71.05.420, and 71.05.440~~) chapter
27 70.02 RCW;

28 (h) License service providers who meet state minimum standards;

29 (i) Certify regional support networks that meet state minimum
30 standards;

31 (j) Periodically monitor the compliance of certified regional
32 support networks and their network of licensed service providers for
33 compliance with the contract between the department, the regional
34 support network, and federal and state rules at reasonable times and in
35 a reasonable manner;

36 (k) Fix fees to be paid by evaluation and treatment centers to the
37 secretary for the required inspections;

1 (l) Monitor and audit regional support networks and licensed
2 service providers as needed to assure compliance with contractual
3 agreements authorized by this chapter;

4 (m) Adopt such rules as are necessary to implement the department's
5 responsibilities under this chapter;

6 (n) Assure the availability of an appropriate amount, as determined
7 by the legislature in the operating budget by amounts appropriated for
8 this specific purpose, of community-based, geographically distributed
9 residential services;

10 (o) Certify crisis stabilization units that meet state minimum
11 standards;

12 (p) Certify clubhouses that meet state minimum standards; and

13 (q) Certify triage facilities that meet state minimum standards.

14 (6) The secretary shall use available resources only for regional
15 support networks, except to the extent authorized, and in accordance
16 with any priorities or conditions specified, in the biennial
17 appropriations act.

18 (7) Each certified regional support network and licensed service
19 provider shall file with the secretary, on request, such data,
20 statistics, schedules, and information as the secretary reasonably
21 requires. A certified regional support network or licensed service
22 provider which, without good cause, fails to furnish any data,
23 statistics, schedules, or information as requested, or files fraudulent
24 reports thereof, may have its certification or license revoked or
25 suspended.

26 (8) The secretary may suspend, revoke, limit, or restrict a
27 certification or license, or refuse to grant a certification or license
28 for failure to conform to: (a) The law; (b) applicable rules and
29 regulations; (c) applicable standards; or (d) state minimum standards.

30 (9) The superior court may restrain any regional support network or
31 service provider from operating without certification or a license or
32 any other violation of this section. The court may also review,
33 pursuant to procedures contained in chapter 34.05 RCW, any denial,
34 suspension, limitation, restriction, or revocation of certification or
35 license, and grant other relief required to enforce the provisions of
36 this chapter.

37 (10) Upon petition by the secretary, and after hearing held upon
38 reasonable notice to the facility, the superior court may issue a

1 warrant to an officer or employee of the secretary authorizing him or
2 her to enter at reasonable times, and examine the records, books, and
3 accounts of any regional support network or service provider refusing
4 to consent to inspection or examination by the authority.

5 (11) Notwithstanding the existence or pursuit of any other remedy,
6 the secretary may file an action for an injunction or other process
7 against any person or governmental unit to restrain or prevent the
8 establishment, conduct, or operation of a regional support network or
9 service provider without certification or a license under this chapter.

10 (12) The standards for certification of evaluation and treatment
11 facilities shall include standards relating to maintenance of good
12 physical and mental health and other services to be afforded persons
13 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
14 otherwise assure the effectuation of the purposes of these chapters.

15 (13) The standards for certification of crisis stabilization units
16 shall include standards that:

17 (a) Permit location of the units at a jail facility if the unit is
18 physically separate from the general population of the jail;

19 (b) Require administration of the unit by mental health
20 professionals who direct the stabilization and rehabilitation efforts;
21 and

22 (c) Provide an environment affording security appropriate with the
23 alleged criminal behavior and necessary to protect the public safety.

24 (14) The standards for certification of a clubhouse shall at a
25 minimum include:

26 (a) The facilities may be peer-operated and must be
27 recovery-focused;

28 (b) Members and employees must work together;

29 (c) Members must have the opportunity to participate in all the
30 work of the clubhouse, including administration, research, intake and
31 orientation, outreach, hiring, training and evaluation of staff, public
32 relations, advocacy, and evaluation of clubhouse effectiveness;

33 (d) Members and staff and ultimately the clubhouse director must be
34 responsible for the operation of the clubhouse, central to this
35 responsibility is the engagement of members and staff in all aspects of
36 clubhouse operations;

37 (e) Clubhouse programs must be comprised of structured activities

1 including but not limited to social skills training, vocational
2 rehabilitation, employment training and job placement, and community
3 resource development;

4 (f) Clubhouse programs must provide in-house educational programs
5 that significantly utilize the teaching and tutoring skills of members
6 and assist members by helping them to take advantage of adult education
7 opportunities in the community;

8 (g) Clubhouse programs must focus on strengths, talents, and
9 abilities of its members;

10 (h) The work-ordered day may not include medication clinics, day
11 treatment, or other therapy programs within the clubhouse.

12 (15) The department shall distribute appropriated state and federal
13 funds in accordance with any priorities, terms, or conditions specified
14 in the appropriations act.

15 (16) The secretary shall assume all duties assigned to the
16 nonparticipating regional support networks under chapters 71.05((~~7~~))
17 and 71.34((~~7~~)) RCW and ((~~71.24~~—RCW)) this chapter. Such
18 responsibilities shall include those which would have been assigned to
19 the nonparticipating counties in regions where there are not
20 participating regional support networks.

21 The regional support networks, or the secretary's assumption of all
22 responsibilities under chapters 71.05((~~7~~)) and 71.34((~~7~~)) RCW and
23 ((~~71.24~~—RCW)) this chapter, shall be included in all state and federal
24 plans affecting the state mental health program including at least
25 those required by this chapter, the medicaid program, and P.L. 99-660.
26 Nothing in these plans shall be inconsistent with the intent and
27 requirements of this chapter.

28 (17) The secretary shall:

29 (a) Disburse funds for the regional support networks within sixty
30 days of approval of the biennial contract. The department must either
31 approve or reject the biennial contract within sixty days of receipt.

32 (b) Enter into biennial contracts with regional support networks.
33 The contracts shall be consistent with available resources. No
34 contract shall be approved that does not include progress toward
35 meeting the goals of this chapter by taking responsibility for: (i)
36 Short-term commitments; (ii) residential care; and (iii) emergency
37 response systems.

1 (c) Notify regional support networks of their allocation of
2 available resources at least sixty days prior to the start of a new
3 biennial contract period.

4 (d) Deny all or part of the funding allocations to regional support
5 networks based solely upon formal findings of noncompliance with the
6 terms of the regional support network's contract with the department.
7 Regional support networks disputing the decision of the secretary to
8 withhold funding allocations are limited to the remedies provided in
9 the department's contracts with the regional support networks.

10 (18) The department, in cooperation with the state congressional
11 delegation, shall actively seek waivers of federal requirements and
12 such modifications of federal regulations as are necessary to allow
13 federal medicaid reimbursement for services provided by freestanding
14 evaluation and treatment facilities certified under chapter 71.05 RCW.
15 The department shall periodically report its efforts to the appropriate
16 committees of the senate and the house of representatives.

17 NEW SECTION. **Sec. 22.** The following acts or parts of acts are
18 each repealed:

19 (1) RCW 70.24.105 (Disclosure of HIV antibody test or testing or
20 treatment of sexually transmitted diseases--Exchange of medical
21 information) and 2011 c 232 s 1;

22 (2) RCW 71.05.390 (Confidential information and records--
23 Disclosure) and 2011 c 305 s 4;

24 (3) RCW 71.05.640 (Treatment records--Access procedures) and 2005
25 c 504 s 712, 2005 c 504 s 113, 2000 c 94 s 11, & 1999 c 13 s 9;

26 (4) RCW 71.05.385 (Information subject to disclosure to authorized
27 persons--Restrictions) and 2011 1st sp.s. c 40 s 23 & 2009 c 320 s 2;

28 (5) RCW 71.05.420 (Records of disclosure) and 2009 c 217 s 7, 2005
29 c 504 s 110, 1990 c 3 s 113, & 1973 1st ex.s. c 142 s 47;

30 (6) RCW 71.05.440 (Action for unauthorized release of confidential
31 information--Liquidated damages--Treble damages--Injunction) and 1990
32 c 3 s 114, 1974 ex.s. c 145 s 28, & 1973 1st ex.s. c 142 s 49;

33 (7) RCW 71.05.427 (Persons committed following dismissal of sex
34 offense--Release of information authorized) and 1990 c 3 s 110;

35 (8) RCW 71.05.510 (Damages for excessive detention) and 1974 ex.s.
36 c 145 s 30 & 1973 1st ex.s. c 142 s 56;

1 (9) RCW 71.34.340 (Information concerning treatment of minors
2 confidential--Disclosure--Admissible as evidence with written consent)
3 and 2011 c 305 s 9, 2005 c 453 s 6, 2000 c 75 s 7, & 1985 c 354 s 18;

4 (10) RCW 71.34.345 (Mental health services information--Release to
5 department of corrections--Rules) and 2004 c 166 s 8, 2002 c 39 s 1, &
6 2000 c 75 s 2; and

7 (11) RCW 71.34.350 (Disclosure of information or records--Required
8 entries in minor's clinical record) and 1985 c 354 s 22.

9 NEW SECTION. **Sec. 23.** This act takes effect August 1, 2013.

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