
ENGROSSED SUBSTITUTE HOUSE BILL 1679

State of Washington 63rd Legislature 2013 Regular Session

By House Health Care & Wellness (originally sponsored by
Representatives Cody, Jinkins, and Ryu)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to disclosure of health care information; amending
2 RCW 70.02.010, 70.02.020, 70.02.050, 70.02.060, 70.02.900, 71.05.660,
3 71.05.680, 71.05.620, 71.24.035, 43.185C.030, 70.05.070, 70.24.450,
4 74.13.280, 74.13.289, 71.05.425, 71.05.445, 72.09.585, and 9.94A.500;
5 adding new sections to chapter 70.02 RCW; repealing RCW 70.24.105,
6 71.05.390, 71.05.640, 71.05.385, 71.05.420, 71.05.440, 71.05.427,
7 71.05.630, 71.05.690, 71.34.340, 71.34.345, and 71.34.350; prescribing
8 penalties; providing an effective date; and declaring an emergency.

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

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

12 The definitions in this section apply throughout this chapter
13 unless the context clearly requires otherwise.

14 (1) "Admission" has the same meaning as in RCW 71.05.020.

15 (2) "Audit" means an assessment, evaluation, determination, or
16 investigation of a health care provider by a person not employed by or
17 affiliated with the provider to determine compliance with:

18 (a) Statutory, regulatory, fiscal, medical, or scientific
19 standards;

1 (b) A private or public program of payments to a health care
2 provider; or
3 (c) Requirements for licensing, accreditation, or certification.
4 ~~((+2))~~ (3) "Commitment" has the same meaning as in RCW 71.05.020.
5 (4) "Custody" has the same meaning as in RCW 71.05.020.
6 (5) "Department" means the department of social and health
7 services.
8 (6) "Designated mental health professional" has the same meaning as
9 in RCW 71.05.020 or 71.34.020, as applicable.
10 (7) "Detention" or "detain" has the same meaning as in RCW
11 71.05.020.
12 (8) "Directory information" means information disclosing the
13 presence, and for the purpose of identification, the name, location
14 within a health care facility, and the general health condition of a
15 particular patient who is a patient in a health care facility or who is
16 currently receiving emergency health care in a health care facility.
17 ~~((+3))~~ (9) "Discharge" has the same meaning as in RCW 71.05.020.
18 (10) "Evaluation and treatment facility" has the same meaning as in
19 RCW 71.05.020 or 71.34.020, as applicable.
20 (11) "Federal, state, or local law enforcement authorities" means
21 an officer of any agency or authority in the United States, a state, a
22 tribe, a territory, or a political subdivision of a state, a tribe, or
23 a territory who is empowered by law to: (a) Investigate or conduct an
24 official inquiry into a potential criminal violation of law; or (b)
25 prosecute or otherwise conduct a criminal proceeding arising from an
26 alleged violation of law.
27 ~~((+4))~~ (12) "General health condition" means the patient's health
28 status described in terms of "critical," "poor," "fair," "good,"
29 "excellent," or terms denoting similar conditions.
30 ~~((+5))~~ (13) "Health care" means any care, service, or procedure
31 provided by a health care provider:
32 (a) To diagnose, treat, or maintain a patient's physical or mental
33 condition; or
34 (b) That affects the structure or any function of the human body.
35 ~~((+6))~~ (14) "Health care facility" means a hospital, clinic,
36 nursing home, laboratory, office, or similar place where a health care
37 provider provides health care to patients.

1 (~~(7)~~) (15) "Health care information" means any information,
2 whether oral or recorded in any form or medium, that identifies or can
3 readily be associated with the identity of a patient and directly
4 relates to the patient's health care, including a patient's
5 deoxyribonucleic acid and identified sequence of chemical base pairs.
6 The term includes any required accounting of disclosures of health care
7 information.

8 (~~(8)~~) (16) "Health care operations" means any of the following
9 activities of a health care provider, health care facility, or third-
10 party payor to the extent that the activities are related to functions
11 that make an entity a health care provider, a health care facility, or
12 a third-party payor:

13 (a) Conducting: Quality assessment and improvement activities,
14 including outcomes evaluation and development of clinical guidelines,
15 if the obtaining of generalizable knowledge is not the primary purpose
16 of any studies resulting from such activities; population-based
17 activities relating to improving health or reducing health care costs,
18 protocol development, case management and care coordination, contacting
19 of health care providers and patients with information about treatment
20 alternatives; and related functions that do not include treatment;

21 (b) Reviewing the competence or qualifications of health care
22 professionals, evaluating practitioner and provider performance and
23 third-party payor performance, conducting training programs in which
24 students, trainees, or practitioners in areas of health care learn
25 under supervision to practice or improve their skills as health care
26 providers, training of nonhealth care professionals, accreditation,
27 certification, licensing, or credentialing activities;

28 (c) Underwriting, premium rating, and other activities relating to
29 the creation, renewal, or replacement of a contract of health insurance
30 or health benefits, and ceding, securing, or placing a contract for
31 reinsurance of risk relating to claims for health care, including stop-
32 loss insurance and excess of loss insurance, if any applicable legal
33 requirements are met;

34 (d) Conducting or arranging for medical review, legal services, and
35 auditing functions, including fraud and abuse detection and compliance
36 programs;

37 (e) Business planning and development, such as conducting cost-
38 management and planning-related analyses related to managing and

1 operating the health care facility or third-party payor, including
2 formulary development and administration, development, or improvement
3 of methods of payment or coverage policies; and

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

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

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

13 (iii) Resolution of internal grievances;

14 (iv) The sale, transfer, merger, or consolidation of all or part of
15 a health care provider, health care facility, or third-party payor with
16 another health care provider, health care facility, or third-party
17 payor or an entity that following such activity will become a health
18 care provider, health care facility, or third-party payor, and due
19 diligence related to such activity; and

20 (v) Consistent with applicable legal requirements, creating
21 deidentified health care information or a limited dataset (~~and fund-~~
22 ~~raising~~) for the benefit of the health care provider, health care
23 facility, or third-party payor.

24 ~~((+9))~~ (17) "Health care provider" means a person who is licensed,
25 certified, registered, or otherwise authorized by the law of this state
26 to provide health care in the ordinary course of business or practice
27 of a profession.

28 ~~((+10))~~ (18) "Human immunodeficiency virus" or "HIV" has the same
29 meaning as in RCW 70.24.017.

30 (19) "Imminent" has the same meaning as in RCW 71.05.020.

31 (20) "Information and records related to mental health services"
32 means a type of health care information that relates to all information
33 and records, including mental health treatment records, compiled,
34 obtained, or maintained in the course of providing services by a mental
35 health service agency, as defined in this section. This may include
36 documents of legal proceedings under chapter 71.05, 71.34, or 10.77
37 RCW, or somatic health care information. For health care information
38 maintained by a hospital as defined in RCW 70.41.020 or a health care

1 facility or health care provider that participates with a hospital in
2 an organized health care arrangement defined under federal law,
3 "information and records related to mental health services" is limited
4 to information and records of services provided by a mental health
5 professional or information and records of services created by a
6 hospital-operated community mental health program as defined in RCW
7 71.24.025(6).

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

14 (22) "Institutional review board" means any board, committee, or
15 other group formally designated by an institution, or authorized under
16 federal or state law, to review, approve the initiation of, or conduct
17 periodic review of research programs to assure the protection of the
18 rights and welfare of human research subjects.

19 ~~((+11))~~ (23) "Legal counsel" has the same meaning as in RCW
20 71.05.020.

21 (24) "Local public health officer" has the same meaning as in RCW
22 70.24.017.

23 (25) "Maintain," as related to health care information, means to
24 hold, possess, preserve, retain, store, or control that information.

25 ~~((+12))~~ (26) "Mental health professional" has the same meaning as
26 in RCW 71.05.020.

27 (27) "Mental health service agency" means a public or private
28 agency that provides services to persons with mental disorders as
29 defined under RCW 71.05.020 or 71.34.020 and receives funding from
30 public sources. This includes evaluation and treatment facilities as
31 defined in RCW 71.34.020, community mental health service delivery
32 systems, or community mental health programs, as defined in RCW
33 71.24.025, and facilities conducting competency evaluations and
34 restoration under chapter 10.77 RCW.

35 (28) "Mental health treatment records" include registration
36 records, as defined in RCW 71.05.020, and all other records concerning
37 persons who are receiving or who at any time have received services for
38 mental illness, which are maintained by the department, by regional

1 support networks and their staff, and by treatment facilities. "Mental
2 health treatment records" include mental health information contained
3 in a medical bill including, but not limited to, mental health drugs,
4 a mental health diagnosis, provider name, and dates of service stemming
5 from a medical service. "Mental health treatment records" do not
6 include notes or records maintained for personal use by a person
7 providing treatment services for the department, regional support
8 networks, or a treatment facility if the notes or records are not
9 available to others.

10 (29) "Minor" has the same meaning as in RCW 71.34.020.

11 (30) "Parent" has the same meaning as in RCW 71.34.020.

12 (31) "Patient" means an individual who receives or has received
13 health care. The term includes a deceased individual who has received
14 health care.

15 ~~((13))~~ (32) "Payment" means:

16 (a) The activities undertaken by:

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

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

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

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

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

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

34 (iv) Review of health care services with respect to medical
35 necessity, coverage under a health plan, appropriateness of care, or
36 justification of charges;

37 (v) Utilization review activities, including precertification and

1 preauthorization of services, and concurrent and retrospective review
2 of services; and

3 (vi) Disclosure to consumer reporting agencies of any of the
4 following health care information relating to collection of premiums or
5 reimbursement:

- 6 (A) Name and address;
- 7 (B) Date of birth;
- 8 (C) Social security number;
- 9 (D) Payment history;
- 10 (E) Account number; and
- 11 (F) Name and address of the health care provider, health care
12 facility, and/or third-party payor.

13 ~~((+14))~~ (33) "Person" means an individual, corporation, business
14 trust, estate, trust, partnership, association, joint venture,
15 government, governmental subdivision or agency, or any other legal or
16 commercial entity.

17 ~~((+15))~~ (34) "Professional person" has the same meaning as in RCW
18 71.05.020.

19 (35) "Psychiatric advanced registered nurse practitioner" has the
20 same meaning as in RCW 71.05.020.

21 (36) "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))~~ (37) "Release" has the same meaning as in RCW 71.05.020.

33 (38) "Resource management services" has the same meaning as in RCW
34 71.05.020.

35 (39) "Serious violent offense" has the same meaning as in RCW
36 71.05.020.

37 (40) "Sexually transmitted infection" or "sexually transmitted

1 disease" has the same meaning as "sexually transmitted disease" in RCW
2 70.24.017.

3 (41) "Test for a sexually transmitted disease" has the same meaning
4 as in RCW 70.24.017.

5 (42) "Third-party payor" means an insurer regulated under Title 48
6 RCW authorized to transact business in this state or other
7 jurisdiction, including a health care service contractor, and health
8 maintenance organization; or an employee welfare benefit plan,
9 excluding fitness or wellness plans; or a state or federal health
10 benefit program.

11 ~~((17))~~ (43) "Treatment" means the provision, coordination, or
12 management of health care and related services by one or more health
13 care providers or health care facilities, including the coordination or
14 management of health care by a health care provider or health care
15 facility with a third party; consultation between health care providers
16 or health care facilities relating to a patient; or the referral of a
17 patient for health care from one health care provider or health care
18 facility to another.

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

21 (1) Except as authorized ~~((in RCW 70.02.050))~~ elsewhere in this
22 chapter, a health care provider, an individual who assists a health
23 care provider in the delivery of health care, or an agent and employee
24 of a health care provider may not disclose health care information
25 about a patient to any other person without the patient's written
26 authorization. A disclosure made under a patient's written
27 authorization must conform to the authorization.

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

32 (a) To carry out treatment, payment, and health care operations;
33 (b) To the patient of health care information about him or her;
34 (c) Incident to a use or disclosure that is otherwise permitted or
35 required;

36 (d) Pursuant to an authorization where the patient authorized the
37 disclosure of health care information about himself or herself;

- 1 (e) Of directory information;
- 2 (f) To persons involved in the patient's care;
- 3 (g) For national security or intelligence purposes if an accounting
- 4 of disclosures is not permitted by law;
- 5 (h) To correctional institutions or law enforcement officials if an
- 6 accounting of disclosures is not permitted by law; ((and))
- 7 (i) Of a limited data set that excludes direct identifiers of the
- 8 patient or of relatives, employers, or household members of the
- 9 patient; and
- 10 (j) As provided in RCW 71.05.425.

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

13 (1) A health care provider or health care facility may disclose
14 health care information, except for information and records related to
15 sexually transmitted diseases which are addressed in section 6 of this
16 act, about a patient without the patient's authorization to the extent
17 a recipient needs to know the information, if the disclosure is:

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

20 (b) To any other person who requires health care information for
21 health care education, or to provide planning, quality assurance, peer
22 review, or administrative, legal, financial, actuarial services to, or
23 other health care operations for or on behalf of the health care
24 provider or health care facility; or for assisting the health care
25 provider or health care facility in the delivery of health care and the
26 health care provider or health care facility reasonably believes that
27 the person:

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

30 (ii) Will take appropriate steps to protect the health care
31 information;

32 ~~(c) ((To any other health care provider or health care facility~~
33 ~~reasonably believed to have previously provided health care to the~~
34 ~~patient, to the extent necessary to provide health care to the patient,~~
35 ~~unless the patient has instructed the health care provider or health~~
36 ~~care facility in writing not to make the disclosure;~~

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

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

12 ~~(f) To a health care provider or health care facility who is the~~
13 ~~successor in interest to the health care provider or health care~~
14 ~~facility maintaining the health care information;~~

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

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

19 ~~(ii) Is impracticable without the use or disclosure of the health~~
20 ~~care information in individually identifiable form;~~

21 ~~(iii) Contains reasonable safeguards to protect the information~~
22 ~~from redisclosure;~~

23 ~~(iv) Contains reasonable safeguards to protect against identifying,~~
24 ~~directly or indirectly, any patient in any report of the research~~
25 ~~project; and~~

26 ~~(v) Contains procedures to remove or destroy at the earliest~~
27 ~~opportunity, consistent with the purposes of the project, information~~
28 ~~that would enable the patient to be identified, unless an institutional~~
29 ~~review board authorizes retention of identifying information for~~
30 ~~purposes of another research project;~~

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

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

36 ~~(ii) Not to disclose the information further, except to accomplish~~
37 ~~the audit or report unlawful or improper conduct involving fraud in~~

1 ~~payment for health care by a health care provider or patient, or other~~
2 ~~unlawful conduct by the health care provider;~~

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

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

8 ~~(k) To fire, police, sheriff, or another public authority, that~~
9 ~~brought, or caused to be brought, the patient to the health care~~
10 ~~facility or health care provider if the disclosure is limited to the~~
11 ~~patient's name, residence, sex, age, occupation, condition, diagnosis,~~
12 ~~estimated or actual discharge date, or extent and location of injuries~~
13 ~~as determined by a physician, and whether the patient was conscious~~
14 ~~when admitted;~~

15 ~~(l) To federal, state, or local law enforcement authorities and the~~
16 ~~health care provider, health care facility, or third party payor~~
17 ~~believes in good faith that the health care information disclosed~~
18 ~~constitutes evidence of criminal conduct that occurred on the premises~~
19 ~~of the health care provider, health care facility, or third party~~
20 ~~payor;~~

21 ~~(m) To another health care provider, health care facility, or~~
22 ~~third party payor for the health care operations of the health care~~
23 ~~provider, health care facility, or third party payor that receives the~~
24 ~~information, if each entity has or had a relationship with the patient~~
25 ~~who is the subject of the health care information being requested, the~~
26 ~~health care information pertains to such relationship, and the~~
27 ~~disclosure is for the purposes described in RCW 70.02.010(8) (a) and~~
28 ~~(b);)) or~~

29 ~~((n)) (d) For payment, including information necessary for a~~
30 ~~recipient to make a claim, or for a claim to be made on behalf of a~~
31 ~~recipient for aid, insurance, or medical assistance to which he or she~~
32 ~~may be entitled.~~

33 ~~(2) A health care provider shall disclose health care information,~~
34 ~~except for information and records related to sexually transmitted~~
35 ~~diseases, unless otherwise authorized in section 6 of this act,~~ about
36 a patient without the patient's authorization if the disclosure is:

37 (a) To federal, state, or local public health authorities, to the
38 extent the health care provider is required by law to report health

1 care information; when needed to determine compliance with state or
2 federal licensure, certification or registration rules or laws, or to
3 investigate unprofessional conduct or ability to practice with
4 reasonable skill and safety under chapter 18.130 RCW. Any health care
5 information obtained under this subsection is exempt from public
6 inspection and copying pursuant to chapter 42.56 RCW; or

7 (b) When needed to protect the public health(;

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

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

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

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

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

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

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

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

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

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

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

32 and

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

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

36 ~~(e) — Pursuant — to — compulsory — process — in — accordance — with — RCW~~
37 ~~70.02.060.~~

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

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

7 (1) In addition to the disclosures authorized by RCW 70.02.050 and
8 section 5 of this act, a health care provider or health care facility
9 may disclose health care information, except for information and
10 records related to sexually transmitted diseases and information
11 related to mental health services which are addressed by sections 6
12 through 10 of this act, about a patient without the patient's
13 authorization, to:

14 (a) Any other health care provider or health care facility
15 reasonably believed to have previously provided health care to the
16 patient, to the extent necessary to provide health care to the patient,
17 unless the patient has instructed the health care provider or health
18 care facility in writing not to make the disclosure;

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

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

30 (d) A health care provider or health care facility who is the
31 successor in interest to the health care provider or health care
32 facility maintaining the health care information;

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

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

1 (ii) Not to disclose the information further, except to accomplish
2 the audit or report unlawful or improper conduct involving fraud in
3 payment for health care by a health care provider or patient, or other
4 unlawful conduct by the health care provider;

5 (f) Provide directory information, unless the patient has
6 instructed the health care provider or health care facility not to make
7 the disclosure;

8 (g) Fire, police, sheriff, or other public authority, that brought,
9 or caused to be brought, the patient to the health care facility or
10 health care provider if the disclosure is limited to the patient's
11 name, residence, sex, age, occupation, condition, diagnosis, estimated
12 or actual discharge date, or extent and location of injuries as
13 determined by a physician, and whether the patient was conscious when
14 admitted;

15 (h) Federal, state, or local law enforcement authorities and the
16 health care provider, health care facility, or third-party payor
17 believes in good faith that the health care information disclosed
18 constitutes evidence of criminal conduct that occurred on the premises
19 of the health care provider, health care facility, or third-party
20 payor; and

21 (i) Another health care provider, health care facility, or third-
22 party payor for the health care operations of the health care provider,
23 health care facility, or third-party payor that receives the
24 information, if each entity has or had a relationship with the patient
25 who is the subject of the health care information being requested, the
26 health care information pertains to such relationship, and the
27 disclosure is for the purposes described in RCW 70.02.010(16) (a) and
28 (b).

29 (2) In addition to the disclosures required by RCW 70.02.050 and
30 section 5 of this act, a health care provider shall disclose health
31 care information, except for information related to sexually
32 transmitted diseases and information related to mental health services
33 which are addressed by sections 6 through 10 of this act, about a
34 patient without the patient's authorization if the disclosure is:

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

37 (b) To federal, state, or local law enforcement authorities, upon
38 receipt of a written or oral request made to a nursing supervisor,

1 administrator, or designated privacy official, in a case in which the
2 patient is being treated or has been treated for a bullet wound,
3 gunshot wound, powder burn, or other injury arising from or caused by
4 the discharge of a firearm, or an injury caused by a knife, an ice
5 pick, or any other sharp or pointed instrument which federal, state, or
6 local law enforcement authorities reasonably believe to have been
7 intentionally inflicted upon a person, or a blunt force injury that
8 federal, state, or local law enforcement authorities reasonably believe
9 resulted from a criminal act, the following information, if known:

- 10 (i) The name of the patient;
- 11 (ii) The patient's residence;
- 12 (iii) The patient's sex;
- 13 (iv) The patient's age;
- 14 (v) The patient's condition;
- 15 (vi) The patient's diagnosis, or extent and location of injuries as
16 determined by a health care provider;
- 17 (vii) Whether the patient was conscious when admitted;
- 18 (viii) The name of the health care provider making the
19 determination in (b)(v), (vi), and (vii) of this subsection;
- 20 (ix) Whether the patient has been transferred to another facility;
- 21 and
- 22 (x) The patient's discharge time and date;
- 23 (c) Pursuant to compulsory process in accordance with RCW
24 70.02.060.

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

27 (1) A health care provider or health care facility may disclose
28 health care information about a patient without the patient's
29 authorization to the extent a recipient needs to know the information,
30 if the disclosure is for use in a research project that an
31 institutional review board has determined:

32 (a) Is of sufficient importance to outweigh the intrusion into the
33 privacy of the patient that would result from the disclosure;

34 (b) Is impracticable without the use or disclosure of the health
35 care information in individually identifiable form;

36 (c) Contains reasonable safeguards to protect the information from
37 redisclosure;

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

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

9 (2) In addition to the disclosures required by RCW 70.02.050 and
10 section 4 of this act, a health care provider or health care facility
11 shall disclose health care information about a patient without the
12 patient's authorization if:

13 (a) The disclosure is to county coroners and medical examiners for
14 the investigations of deaths; or

15 (b) The disclosure is to a procurement organization or person to
16 whom a body part passes for the purpose of examination necessary to
17 assure the medical suitability of the body part.

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

20 (1) No person may disclose or be compelled to disclose the identity
21 of any person who has investigated, considered, or requested a test or
22 treatment for a sexually transmitted disease, except as authorized by
23 this section, section 5 of this act, or chapter 70.24 RCW.

24 (2) No person may disclose or be compelled to disclose information
25 and records related to sexually transmitted diseases. A person may
26 disclose information related to sexually transmitted diseases about a
27 patient without the patient's authorization, to the extent a recipient
28 needs to know the information, if the disclosure is to:

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

33 (b) The state public health officer as defined in RCW 70.24.017, a
34 local public health officer, or the centers for disease control of the
35 United States public health service in accordance with reporting
36 requirements for a diagnosed case of a sexually transmitted disease;

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

7 (d) Any state or local public health officer conducting an
8 investigation pursuant to RCW 70.24.024, so long as the record was
9 obtained by means of court-ordered HIV testing pursuant to RCW
10 70.24.340 or 70.24.024;

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

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

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

1 (h) Claims management personnel employed by or associated with an
2 insurer, health care service contractor, health maintenance
3 organization, self-funded health plan, state administered health care
4 claims payer, or any other payer of health care claims where such
5 disclosure is to be used solely for the prompt and accurate evaluation
6 and payment of medical or related claims. Information released under
7 this subsection must be confidential and may not be released or
8 available to persons who are not involved in handling or determining
9 medical claims payment; and

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

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

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

28 (a) The sexually transmitted disease status of a department of
29 corrections offender who has had a mandatory test conducted pursuant to
30 RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by
31 department of corrections health care providers and local public health
32 officers to the department of corrections health care administrator or
33 infection control coordinator of the facility in which the offender is
34 housed. The information made available to the health care
35 administrator or the infection control coordinator under this
36 subsection (4)(a) may be used only for disease prevention or control
37 and for protection of the safety and security of the staff, offenders,
38 and the public. The information may be submitted to transporting

1 officers and receiving facilities, including facilities that are not
2 under the department of corrections' jurisdiction according to the
3 provisions of (d) and (e) of this subsection.

4 (b) The sexually transmitted disease status of a person detained in
5 a jail who has had a mandatory test conducted pursuant to RCW
6 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the
7 local public health officer to a jail health care administrator or
8 infection control coordinator. The information made available to a
9 health care administrator under this subsection (4)(b) may be used only
10 for disease prevention or control and for protection of the safety and
11 security of the staff, offenders, detainees, and the public. The
12 information may be submitted to transporting officers and receiving
13 facilities according to the provisions of (d) and (e) of this
14 subsection.

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

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

1 disciplinary action, in addition to the penalties prescribed in RCW
2 70.24.080, and imposition of other penalties prescribed by law.

3 (e) The staff member must also be informed whether the offender or
4 detained person had any other communicable disease, as defined in RCW
5 72.09.251(3), when the staff person was substantially exposed to the
6 offender's or detainee's bodily fluids.

7 (f) The test results of voluntary and anonymous HIV testing or HIV-
8 related condition, as defined in RCW 70.24.017, may not be disclosed to
9 a staff person except as provided in this section and RCW
10 70.02.050(1)(d) and 70.24.340(4). A health care administrator or
11 infection control coordinator may provide the staff member with
12 information about how to obtain the offender's or detainee's test
13 results under this section and RCW 70.02.050(1)(d) and 70.24.340(4).

14 (5) The requirements of this section do not apply to the customary
15 methods utilized for the exchange of medical information among health
16 care providers in order to provide health care services to the patient,
17 nor do they apply within health care facilities where there is a need
18 for access to confidential medical information to fulfill professional
19 duties.

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

26 (7) A person, including a health care facility or health care
27 provider, shall disclose the identity of any person who has
28 investigated, considered, or requested a test or treatment for a
29 sexually transmitted disease and information and records related to
30 sexually transmitted diseases to federal, state, or local public health
31 authorities, to the extent the health care provider is required by law
32 to report health care information; when needed to determine compliance
33 with state or federal certification or registration rules or laws; or
34 when needed to protect the public health. Any health care information
35 obtained under this subsection is exempt from public inspection and
36 copying pursuant to chapter 42.56 RCW.

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

3 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
4 70.96A.150, 74.09.295, sections 5, 8, 9, and 10 of this act, or
5 pursuant to a valid authorization under RCW 70.02.030, the fact of
6 admission to a provider for mental health services and all information
7 and records compiled, obtained, or maintained in the course of
8 providing mental health services to either voluntary or involuntary
9 recipients of services at public or private agencies must be
10 confidential.

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

14 (a) In communications between qualified professional persons to
15 meet the requirements of chapter 71.05 RCW, in the provision of
16 services or appropriate referrals, or in the course of guardianship
17 proceedings if provided to a professional person:

18 (i) Employed by the facility;

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

20 (iii) Who is a designated mental health professional;

21 (iv) Who is providing services under chapter 71.24 RCW;

22 (v) Who is employed by a state or local correctional facility where
23 the person is confined or supervised; or

24 (vi) Who is providing evaluation, treatment, or follow-up services
25 under chapter 10.77 RCW;

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

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

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

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

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

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

8 (d)(i) To the courts as necessary to the administration of chapter
9 71.05 RCW or to a court ordering an evaluation or treatment under
10 chapter 10.77 RCW solely for the purpose of preventing the entry of any
11 evaluation or treatment order that is inconsistent with any order
12 entered under chapter 71.05 RCW.

13 (ii) To a court or its designee in which a motion under chapter
14 10.77 RCW has been made for involuntary medication of a defendant for
15 the purpose of competency restoration.

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

18 (e)(i) When a mental health professional is requested by a
19 representative of a law enforcement or corrections agency, including a
20 police officer, sheriff, community corrections officer, a municipal
21 attorney, or prosecuting attorney to undertake an investigation or
22 provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the
23 mental health professional shall, if requested to do so, advise the
24 representative in writing of the results of the investigation including
25 a statement of reasons for the decision to detain or release the person
26 investigated. The written report must be submitted within seventy-two
27 hours of the completion of the investigation or the request from the
28 law enforcement or corrections representative, whichever occurs later.

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

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

32 (g) To the prosecuting attorney as necessary to carry out the
33 responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b),
34 and 71.05.335. The prosecutor must be provided access to records
35 regarding the committed person's treatment and prognosis, medication,
36 behavior problems, and other records relevant to the issue of whether
37 treatment less restrictive than inpatient treatment is in the best

1 interest of the committed person or others. Information must be
2 disclosed only after giving notice to the committed person and the
3 person's counsel;

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

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

19 (i)(i) To appropriate corrections and law enforcement agencies all
20 necessary and relevant information in the event of a crisis or emergent
21 situation that poses a significant and imminent risk to the public.
22 The mental health service agency or its employees are not civilly
23 liable for the decision to disclose or not so long as the decision was
24 reached in good faith and without gross negligence.

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

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

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

37 (l) To mark headstones or otherwise memorialize patients interred
38 at state hospital cemeteries. The department of social and health

1 services shall make available the name, date of birth, and date of
2 death of patients buried in state hospital cemeteries fifty years after
3 the death of a patient;

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

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

12 (ii) The law enforcement and prosecuting attorneys may only release
13 the information obtained to the person's attorney as required by court
14 rule and to a jury or judge, if a jury is waived, that presides over
15 any trial at which the person is charged with violating RCW
16 9.41.040(2)(a)(ii);

17 (iii) Disclosure under this subsection is mandatory for the
18 purposes of the federal health insurance portability and accountability
19 act;

20 (n) When a patient would otherwise be subject to the provisions of
21 this section and disclosure is necessary for the protection of the
22 patient or others due to his or her unauthorized disappearance from the
23 facility, and his or her whereabouts is unknown, notice of the
24 disappearance, along with relevant information, may be made to
25 relatives, the department of corrections when the person is under the
26 supervision of the department, and governmental law enforcement
27 agencies designated by the physician or psychiatric advanced registered
28 nurse practitioner in charge of the patient or the professional person
29 in charge of the facility, or his or her professional designee;

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

31 (p) To qualified staff members of the department, to the director
32 of regional support networks, to resource management services
33 responsible for serving a patient, or to service providers designated
34 by resource management services as necessary to determine the progress
35 and adequacy of treatment and to determine whether the person should be
36 transferred to a less restrictive or more appropriate treatment
37 modality or facility;

1 (q) Within the treatment facility where the patient is receiving
2 treatment, confidential information may be disclosed to persons
3 employed, serving in bona fide training programs, or participating in
4 supervised volunteer programs, at the facility when it is necessary to
5 perform their duties;

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

9 (s) To a licensed physician or psychiatric advanced registered
10 nurse practitioner who has determined that the life or health of the
11 person is in danger and that treatment without the information
12 contained in the mental health treatment records could be injurious to
13 the patient's health. Disclosure must be limited to the portions of
14 the records necessary to meet the medical emergency;

15 (t) Consistent with the requirements of the federal health
16 information portability and accountability act, to a licensed mental
17 health professional or a health care professional licensed under
18 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
19 providing care to a person, or to whom a person has been referred for
20 evaluation or treatment, to assure coordinated care and treatment of
21 that person. Psychotherapy notes, as defined in 45 C.F.R. Sec.
22 164.501, may not be released without authorization of the person who is
23 the subject of the request for release of information;

24 (u) To administrative and office support staff designated to obtain
25 medical records for those licensed professionals listed in (t) of this
26 subsection;

27 (v) To a facility that is to receive a person who is involuntarily
28 committed under chapter 71.05 RCW, or upon transfer of the person from
29 one treatment facility to another. The release of records under this
30 subsection is limited to the mental health treatment records required
31 by law, a record or summary of all somatic treatments, and a discharge
32 summary. The discharge summary may include a statement of the
33 patient's problem, the treatment goals, the type of treatment which has
34 been provided, and recommendation for future treatment, but may not
35 include the patient's complete treatment record;

36 (w) To the person's counsel or guardian ad litem, without
37 modification, at any time in order to prepare for involuntary

1 commitment or recommitment proceedings, reexaminations, appeals, or
2 other actions relating to detention, admission, commitment, or
3 patient's rights under chapter 71.05 RCW;

4 (x) To staff members of the protection and advocacy agency or to
5 staff members of a private, nonprofit corporation for the purpose of
6 protecting and advocating the rights of persons with mental disorders
7 or developmental disabilities. Resource management services may limit
8 the release of information to the name, birthdate, and county of
9 residence of the patient, information regarding whether the patient was
10 voluntarily admitted, or involuntarily committed, the date and place of
11 admission, placement, or commitment, the name and address of a guardian
12 of the patient, and the date and place of the guardian's appointment.
13 Any staff member who wishes to obtain additional information must
14 notify the patient's resource management services in writing of the
15 request and of the resource management services' right to object. The
16 staff member shall send the notice by mail to the guardian's address.
17 If the guardian does not object in writing within fifteen days after
18 the notice is mailed, the staff member may obtain the additional
19 information. If the guardian objects in writing within fifteen days
20 after the notice is mailed, the staff member may not obtain the
21 additional information;

22 (y) To all current treating providers of the patient with
23 prescriptive authority who have written a prescription for the patient
24 within the last twelve months. For purposes of coordinating health
25 care, the department may release without written authorization of the
26 patient, information acquired for billing and collection purposes as
27 described in RCW 70.02.050(1)(d). The department shall notify the
28 patient that billing and collection information has been released to
29 named providers, and provide the substance of the information released
30 and the dates of such release. The department may not release
31 counseling, inpatient psychiatric hospitalization, or drug and alcohol
32 treatment information without a signed written release from the client;

33 (z)(i) To the secretary of social and health services for either
34 program evaluation or research, or both so long as the secretary adopts
35 rules for the conduct of the evaluation or research, or both. Such
36 rules must include, but need not be limited to, the requirement that
37 all evaluators and researchers sign an oath of confidentiality
38 substantially as follows:

1 "As a condition of conducting evaluation or research concerning
2 persons who have received services from (fill in the facility, agency,
3 or person) I,, agree not to divulge, publish, or otherwise
4 make known to unauthorized persons or the public any information
5 obtained in the course of such evaluation or research regarding persons
6 who have received services such that the person who received such
7 services is identifiable.

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

10 /s/"

11 (ii) Nothing in this chapter may be construed to prohibit the
12 compilation and publication of statistical data for use by government
13 or researchers under standards, including standards to assure
14 maintenance of confidentiality, set forth by the secretary.

15 (3) 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 chemical dependency, the department
18 may restrict the release of the information as necessary to comply with
19 federal law and regulations.

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

25 (5) The fact of admission to a provider of mental health services,
26 as well as all records, files, evidence, findings, or orders made,
27 prepared, collected, or maintained pursuant to chapter 71.05 RCW are
28 not admissible as evidence in any legal proceeding outside that chapter
29 without the written authorization of the person who was the subject of
30 the proceeding except as provided in section 10 of this act, in a
31 subsequent criminal prosecution of a person committed pursuant to RCW
32 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant
33 to chapter 10.77 RCW due to incompetency to stand trial, in a civil
34 commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of
35 a minor, a guardianship or dependency proceeding. The records and
36 files maintained in any court proceeding pursuant to chapter 71.05 RCW
37 must be confidential and available subsequent to such proceedings only
38 to the person who was the subject of the proceeding or his or her

1 attorney. In addition, the court may order the subsequent release or
2 use of such records or files only upon good cause shown if the court
3 finds that appropriate safeguards for strict confidentiality are and
4 will be maintained.

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

7 The fact of admission and all information and records related to
8 mental health services obtained through treatment under chapter 71.34
9 RCW is confidential, except as authorized in RCW 70.02.050 and sections
10 5, 7, 9, and 10 of this act. Such confidential information may be
11 disclosed only:

12 (1) In communications between mental health professionals to meet
13 the requirements of chapter 71.34 RCW, in the provision of services to
14 the 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 administer chapter 71.34 RCW;

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

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

32 (7) To the secretary of social and health services for assistance
33 in data collection and program evaluation or research so long as the
34 secretary adopts rules for the conduct of such evaluation and research.
35 The rules must include, but need not be limited to, the requirement
36 that all evaluators and researchers sign an oath of confidentiality
37 substantially as follows:

1 "As a condition of conducting evaluation or research concerning
2 persons who have received services from (fill in the facility, agency,
3 or person) I,, agree not to divulge, publish, or otherwise
4 make known to unauthorized persons or the public any information
5 obtained in the course of such evaluation or research regarding minors
6 who have received services in a manner such that the minor is
7 identifiable.

8 I recognize that unauthorized release of confidential information
9 may subject me to civil liability under state law.

10 /s/ ";

11 (8) To appropriate law enforcement agencies, upon request, all
12 necessary and relevant information in the event of a crisis or emergent
13 situation that poses a significant and imminent risk to the public.
14 The mental health service agency or its employees are not civilly
15 liable for the decision to disclose or not, so long as the decision was
16 reached in good faith and without gross negligence;

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

29 (10) To a minor's next of kin, attorney, guardian, or conservator,
30 if any, the information that the minor is presently in the facility or
31 that the minor is seriously physically ill and a statement evaluating
32 the mental and physical condition of the minor as well as a statement
33 of the probable duration of the minor's confinement;

34 (11) Upon the death of a minor, to the minor's next of kin;

35 (12) To a facility in which the minor resides or will reside;

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

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

6 (b) The law enforcement and prosecuting attorneys may only release
7 the information obtained to the person's attorney as required by court
8 rule and to a jury or judge, if a jury is waived, that presides over
9 any trial at which the person is charged with violating RCW
10 9.41.040(2)(a)(ii);

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

13 (14) This section may not be construed to prohibit the compilation
14 and publication of statistical data for use by government or
15 researchers under standards, including standards to assure maintenance
16 of confidentiality, set forth by the secretary of the department of
17 social and health services. The fact of admission and all information
18 obtained pursuant to chapter 71.34 RCW are not admissible as evidence
19 in any legal proceeding outside chapter 71.34 RCW, except guardianship
20 or dependency, without the written consent of the minor or the minor's
21 parent;

22 (15) For the purpose of a correctional facility participating in
23 the postinstitutional medical assistance system supporting the
24 expedited medical determinations and medical suspensions as provided in
25 RCW 74.09.555 and 74.09.295;

26 (16) Pursuant to a lawful order of a court.

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

29 (1) Information and records related to mental health services
30 delivered to a person subject to chapter 9.94A or 9.95 RCW must be
31 released, upon request, by a mental health service agency to department
32 of corrections personnel for whom the information is necessary to carry
33 out the responsibilities of their office. The information must be
34 provided only for the purpose of completing presentence investigations,
35 supervision of an incarcerated person, planning for and provision of
36 supervision of a person, or assessment of a person's risk to the

1 community. The request must be in writing and may not require the
2 consent of the subject of the records.

3 (2) The information to be released to the department of corrections
4 must include all relevant records and reports, as defined by rule,
5 necessary for the department of corrections to carry out its duties,
6 including those records and reports identified in subsection (1) of
7 this section.

8 (3) The department shall, subject to available resources,
9 electronically, or by the most cost-effective means available, provide
10 the department of corrections with the names, last dates of services,
11 and addresses of specific regional support networks and mental health
12 service agencies that delivered mental health services to a person
13 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
14 the departments.

15 (4) The department and the department of corrections, in
16 consultation with regional support networks, mental health service
17 agencies as defined in RCW 70.02.010, mental health consumers, and
18 advocates for persons with mental illness, shall adopt rules to
19 implement the provisions of this section related to the type and scope
20 of information to be released. These rules must:

21 (a) Enhance and facilitate the ability of the department of
22 corrections to carry out its responsibility of planning and ensuring
23 community protection with respect to persons subject to sentencing
24 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
25 disclosing information of persons who received mental health services
26 as a minor; and

27 (b) Establish requirements for the notification of persons under
28 the supervision of the department of corrections regarding the
29 provisions of this section.

30 (5) The information received by the department of corrections under
31 this section must remain confidential and subject to the limitations on
32 disclosure outlined in chapter 71.34 RCW, except as provided in RCW
33 72.09.585.

34 (6) No mental health service agency or individual employed by a
35 mental health service agency may be held responsible for information
36 released to or used by the department of corrections under the
37 provisions of this section or rules adopted under this section.

1 (7) Whenever federal law or federal regulations restrict the
2 release of information contained in the treatment records of any
3 patient who receives treatment for alcoholism or drug dependency, the
4 release of the information may be restricted as necessary to comply
5 with federal law and regulations.

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

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

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

13 (i) The fact, place, and date of an involuntary commitment, the
14 fact and date of discharge or release, and the last known address of a
15 person who has been committed under chapter 71.05 RCW.

16 (ii) Information and records related to mental health services, in
17 the format determined under subsection (9) of this section, concerning
18 a person who:

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

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

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

26 (b) Legal counsel may release such information to the persons
27 authorized under subsection (2) of this section on behalf of the mental
28 health service agency, so long as nothing in this subsection requires
29 the disclosure of attorney work product or attorney-client privileged
30 information.

31 (2) The information subject to release under subsection (1) of this
32 section must be released to law enforcement officers, personnel of a
33 county or city jail, designated mental health professionals, public
34 health officers, therapeutic court personnel as defined in RCW
35 71.05.020, or personnel of the department of corrections, including the
36 indeterminate sentence review board and personnel assigned to perform
37 board-related duties, when such information is requested during the

1 course of business and for the purpose of carrying out the
2 responsibilities of the requesting person's office. No mental health
3 service agency or person employed by a mental health service agency, or
4 its legal counsel, may be liable for information released to or used
5 under the provisions of this section or rules adopted under this
6 section except under RCW 71.05.680.

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

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

13 (i) Completing presentence investigations or risk assessment
14 reports;

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

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

18 (iv) Planning for and provision of supervision of an offender,
19 including decisions related to sanctions for violations of conditions
20 of community supervision; and

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

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

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

30 (ii) Is exhibiting signs of a deterioration in mental functioning
31 which may make the individual appropriate for civil commitment under
32 chapter 71.05 RCW; and

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

36 (i) The information may be shared with other persons who have the
37 right to request similar information under subsection (2) of this

1 section, solely for the purpose of coordinating activities related to
2 the individual who is the subject of the information in a manner
3 consistent with the official responsibilities of the persons involved;

4 (ii) The information may be shared with a prosecuting attorney
5 acting in an advisory capacity for a person who receives information
6 under this section. A prosecuting attorney under this subsection is
7 subject to the same restrictions and confidentiality limitations as the
8 person who requested the information; and

9 (iii) As provided in RCW 72.09.585.

10 (4) A request for information and records related to mental health
11 services under this section does not require the consent of the subject
12 of the records. The request must be provided in writing, except to the
13 extent authorized in subsection (5) of this section. A written request
14 may include requests made by e-mail or facsimile so long as the
15 requesting person is clearly identified. The request must specify the
16 information being requested.

17 (5) In the event of an emergency situation that poses a significant
18 risk to the public or the offender, a mental health service agency, or
19 its legal counsel, shall release information related to mental health
20 services delivered to the offender and, if known, information regarding
21 where the offender is likely to be found to the department of
22 corrections or law enforcement upon request. The initial request may
23 be written or oral. All oral requests must be subsequently confirmed
24 in writing. Information released in response to an oral request is
25 limited to a statement as to whether the offender is or is not being
26 treated by the mental health service agency and the address or
27 information about the location or whereabouts of the offender.

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

31 (7) Whenever federal law or federal regulations restrict the
32 release of information contained in the treatment records of any
33 patient who receives treatment for alcoholism or drug dependency, the
34 release of the information may be restricted as necessary to comply
35 with federal law and regulations.

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

1 (9) In collaboration with interested organizations, the department
2 shall develop a standard form for requests for information related to
3 mental health services made under this section and a standard format
4 for information provided in response to the requests. Consistent with
5 the goals of the health information privacy provisions of the federal
6 health insurance portability and accountability act, in developing the
7 standard form for responsive information, the department shall design
8 the form in such a way that the information disclosed is limited to the
9 minimum necessary to serve the purpose for which the information is
10 requested.

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

13 (1) No person who receives health care information for health care
14 education, or to provide planning, quality assurance, peer review, or
15 administrative, legal, financial, or actuarial services, or other
16 health care operations for or on behalf of a health care provider or
17 health care facility, may use or disclose any health care information
18 received from the health care provider or health care facility in any
19 manner that is inconsistent with the duties of the health care provider
20 or health care facility under this chapter.

21 (2) A health care provider or health care facility that has a
22 contractual relationship with a person to provide services described
23 under subsection (1) of this section must terminate the contractual
24 relationship with the person if the health care provider or health care
25 facility learns that the person has engaged in a pattern of activity
26 that violates the person's duties under subsection (1) of this section,
27 unless the person took reasonable steps to correct the breach of
28 confidentiality or has discontinued the violating activity.

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

31 A health care provider, health care facility, and their assistants,
32 employees, agents, and contractors may not:

33 (1) Use or disclose health care information for marketing or fund-
34 raising purposes, unless permitted by federal law; or

35 (2) Sell health care information to a third party, except in a form
36 that is deidentified and aggregated.

1 **Sec. 13.** RCW 70.02.060 and 1991 c 335 s 205 are each amended to
2 read as follows:

3 (1)(a) Before service of a discovery request or compulsory process
4 on a ~~((health-care-provider))~~ hospital as defined in RCW 70.41.020 for
5 health care information, an attorney shall provide advance notice to
6 the ~~((health-care-provider))~~ hospital and the patient or the patient's
7 attorney involved through service of process or first-class mail,
8 indicating the ~~((health-care-provider))~~ hospital from whom the
9 information is sought, what health care information is sought, and the
10 date by which a protective order must be obtained to prevent the
11 ~~((health-care-provider))~~ hospital from complying. Such date shall give
12 the patient and the ~~((health-care-provider))~~ hospital adequate time to
13 seek a protective order, but in no event be less than fourteen days
14 since the date of service or delivery to the patient and the ~~((health~~
15 ~~care-provider))~~ hospital of the foregoing. Thereafter the request for
16 discovery or compulsory process shall be served on the ~~((health-care~~
17 ~~provider))~~ hospital.

18 ~~((+2))~~ (b) Without the written consent of the patient, the
19 ~~((health-care-provider))~~ hospital may not disclose the health care
20 information sought under ~~((subsection-(1)))~~ (a) of this ~~((section))~~
21 subsection if the requestor has not complied with the requirements of
22 ~~((subsection-(1)))~~ (a) of this ~~((section))~~ subsection. In the absence
23 of a protective order issued by a court of competent jurisdiction
24 forbidding compliance, the ~~((health-care-provider))~~ hospital shall
25 disclose the information in accordance with this chapter. In the case
26 of compliance, the request for discovery or compulsory process shall be
27 made a part of the patient record.

28 ~~((+3))~~ (c) Production of health care information under this
29 section, in and of itself, does not constitute a waiver of any
30 privilege, objection, or defense existing under other law or rule of
31 evidence or procedure.

32 (2)(a) A discovery request or compulsory process for health care
33 information from an entity other than a hospital must be made in
34 accordance with the appropriate civil rules of superior court and
35 include service of a copy of the subpoena on the patient whose records
36 are being sought for disclosure.

37 (b) Upon receipt of such a request or process, the health care
38 provider shall provide a copy to the patient at the patient's last

1 known address, to the patient's attorney, if known, unless after
2 reasonable inquiry the health care provider is unable to determine the
3 last known address of the patient.

4 (c) On sending a copy of the request or process as provided in (b)
5 of this subsection, the health care provider has no further obligation
6 to assert a state or federal privilege pertaining to the records or to
7 appear or respond to a motion to compel production of records, and
8 shall produce the records if ordered by a court. If an objection is
9 timely filed by the patient, the patient or the patient's attorney is
10 responsible for asserting or waiving any state or federal privilege
11 that pertains to the records.

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

14 All state or local agencies obtaining patient health care
15 information pursuant to RCW 70.02.050 and sections 4 through 7 of this
16 act that are not health care providers shall adopt rules establishing
17 their record acquisition, retention, and security policies that are
18 consistent with this chapter.

19 NEW SECTION. Sec. 15. A new section is added to chapter 70.02 RCW
20 to read as follows:

21 Whenever disclosure is made of information and records related to
22 sexually transmitted diseases pursuant to this chapter, except for RCW
23 70.02.050(1)(a) and section 6 (2) (a) and (b) and (7) of this act, it
24 must be accompanied by a statement in writing which includes the
25 following or substantially similar language: "This information has
26 been disclosed to you from records whose confidentiality is protected
27 by state law. State law prohibits you from making any further
28 disclosure of it without the specific written authorization of the
29 person to whom it pertains, or as otherwise permitted by state law. A
30 general authorization for the release of medical or other information
31 is NOT sufficient for this purpose." An oral disclosure must be
32 accompanied or followed by such a notice within ten days.

33 NEW SECTION. Sec. 16. A new section is added to chapter 70.02 RCW
34 to read as follows:

35 (1) Resource management services shall establish procedures to

1 provide reasonable and timely access to individual mental health
2 treatment records. However, access may not be denied at any time to
3 records of all medications and somatic treatments received by the
4 person.

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

11 (3) Mental health treatment records may be modified prior to
12 inspection to protect the confidentiality of other patients or the
13 names of any other persons referred to in the record who gave
14 information on the condition that his or her identity remain
15 confidential. Entire documents may not be withheld to protect such
16 confidentiality.

17 (4) At the time of discharge resource management services shall
18 inform all persons who have received mental health services of their
19 rights as provided in this chapter and RCW 71.05.620.

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

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

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

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

33 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.02 RCW
34 to read as follows:

1 The department of social and health services shall adopt rules
2 related to the disclosure of mental health treatment records in this
3 chapter.

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

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

12 **Sec. 21.** RCW 70.02.900 and 2011 c 305 s 10 are each amended to
13 read as follows:

14 (1) This chapter does not restrict a health care provider, a third-
15 party payor, or an insurer regulated under Title 48 RCW from complying
16 with obligations imposed by federal or state health care payment
17 programs or federal or state law.

18 (2) This chapter does not modify the terms and conditions of
19 disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, 70.96A,
20 (~~71.05, 71.34~~) and 74.09 RCW and rules adopted under these
21 provisions.

22 **Sec. 22.** RCW 71.05.660 and 2009 c 217 s 9 are each amended to read
23 as follows:

24 Nothing in this chapter or chapter 70.02, 70.96A, (~~71.05~~) 71.34,
25 or 70.96B RCW shall be construed to interfere with communications
26 between physicians, psychiatric advanced registered nurse
27 practitioners, or psychologists and patients and attorneys and clients.

28 **Sec. 23.** RCW 71.05.680 and 2005 c 504 s 713 are each amended to
29 read as follows:

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

1 **Sec. 24.** RCW 71.05.620 and 2005 c 504 s 111 are each amended to
2 read as follows:

3 (1) The files and records of court proceedings under this chapter
4 and chapters 70.96A, 71.34, and 70.96B RCW shall be closed but shall be
5 accessible to any person who is the subject of a petition and to the
6 person's attorney, guardian ad litem, resource management services, or
7 service providers authorized to receive such information by resource
8 management services.

9 (2) The department shall adopt rules to implement this section.

10 **Sec. 25.** RCW 71.24.035 and 2011 c 148 s 4 are each amended to read
11 as follows:

12 (1) The department is designated as the state mental health
13 authority.

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

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

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

27 (5) The secretary shall:

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

33 (b) Assure that any regional or county community mental health
34 program provides access to treatment for the region's residents,
35 including parents who are respondents in dependency cases, in the
36 following order of priority: (i) Persons with acute mental illness;

1 (ii) adults with chronic mental illness and children who are severely
2 emotionally disturbed; and (iii) persons who are seriously disturbed.

3 Such programs shall provide:

4 (A) Outpatient services;

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

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

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

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

21 (F) Consultation and education services; and

22 (G) Community support services;

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

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

33 (ii) Regional support networks; and

34 (iii) Inpatient services, evaluation and treatment services and
35 facilities under chapter 71.05 RCW, resource management services, and
36 community support services;

37 (d) Assure that the special needs of persons who are minorities,

1 elderly, disabled, children, low-income, and parents who are
2 respondents in dependency cases are met within the priorities
3 established in this section;

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

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

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

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

25 (i) Certify regional support networks that meet state minimum
26 standards;

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

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

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

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

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

5 (o) Certify crisis stabilization units that meet state minimum
6 standards;

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

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

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

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

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

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

32 (10) Upon petition by the secretary, and after hearing held upon
33 reasonable notice to the facility, the superior court may issue a
34 warrant to an officer or employee of the secretary authorizing him or
35 her to enter at reasonable times, and examine the records, books, and
36 accounts of any regional support network or service provider refusing
37 to consent to inspection or examination by the authority.

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

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

11 (13) The standards for certification of crisis stabilization units
12 shall include standards that:

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

15 (b) Require administration of the unit by mental health
16 professionals who direct the stabilization and rehabilitation efforts;
17 and

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

20 (14) The standards for certification of a clubhouse shall at a
21 minimum include:

22 (a) The facilities may be peer-operated and must be
23 recovery-focused;

24 (b) Members and employees must work together;

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

29 (d) Members and staff and ultimately the clubhouse director must be
30 responsible for the operation of the clubhouse, central to this
31 responsibility is the engagement of members and staff in all aspects of
32 clubhouse operations;

33 (e) Clubhouse programs must be comprised of structured activities
34 including but not limited to social skills training, vocational
35 rehabilitation, employment training and job placement, and community
36 resource development;

37 (f) Clubhouse programs must provide in-house educational programs

1 that significantly utilize the teaching and tutoring skills of members
2 and assist members by helping them to take advantage of adult education
3 opportunities in the community;

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

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

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

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

17 The regional support networks, or the secretary's assumption of all
18 responsibilities under chapters 71.05((~~7~~)) and 71.34((~~7~~)) RCW and
19 ((~~71.24 — RCW~~)) this chapter, shall be included in all state and federal
20 plans affecting the state mental health program including at least
21 those required by this chapter, the medicaid program, and P.L. 99-660.
22 Nothing in these plans shall be inconsistent with the intent and
23 requirements of this chapter.

24 (17) The secretary shall:

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

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

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

37 (d) Deny all or part of the funding allocations to regional support
38 networks based solely upon formal findings of noncompliance with the

1 terms of the regional support network's contract with the department.
2 Regional support networks disputing the decision of the secretary to
3 withhold funding allocations are limited to the remedies provided in
4 the department's contracts with the regional support networks.

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

12 **Sec. 26.** RCW 43.185C.030 and 2005 c 484 s 6 are each amended to
13 read as follows:

14 The department shall annually conduct a Washington homeless census
15 or count consistent with the requirements of RCW ((~~43.63A.655~~))
16 43.185C.180. The census shall make every effort to count all homeless
17 individuals living outdoors, in shelters, and in transitional housing,
18 coordinated, when reasonably feasible, with already existing homeless
19 census projects including those funded in part by the United States
20 department of housing and urban development under the McKinney-Vento
21 homeless assistance program. The department shall determine, in
22 consultation with local governments, the data to be collected.

23 All personal information collected in the census is confidential,
24 and the department and each local government shall take all necessary
25 steps to protect the identity and confidentiality of each person
26 counted.

27 The department and each local government are prohibited from
28 disclosing any personally identifying information about any homeless
29 individual when there is reason to believe or evidence indicating that
30 the homeless individual is an adult or minor victim of domestic
31 violence, dating violence, sexual assault, or stalking or is the parent
32 or guardian of a child victim of domestic violence, dating violence,
33 sexual assault, or stalking; or revealing other confidential
34 information regarding HIV/AIDS status, as found in ((~~RCW 70.24.105~~))
35 section 6 of this act. The department and each local government shall
36 not ask any homeless housing provider to disclose personally
37 identifying information about any homeless individuals when the

1 providers implementing those programs have reason to believe or
2 evidence indicating that those clients are adult or minor victims of
3 domestic violence, dating violence, sexual assault, or stalking or are
4 the parents or guardians of child victims of domestic violence, dating
5 violence, sexual assault, or stalking. Summary data for the provider's
6 facility or program may be substituted.

7 The Washington homeless census shall be conducted annually on a
8 schedule created by the department. The department shall make summary
9 data by county available to the public each year. This data, and its
10 analysis, shall be included in the department's annual updated homeless
11 housing program strategic plan.

12 Based on the annual census and provider information from the local
13 government plans, the department shall, by the end of year four,
14 implement an online information and referral system to enable local
15 governments and providers to identify available housing for a homeless
16 person. The department shall work with local governments and their
17 providers to develop a capacity for continuous case management to
18 assist homeless persons.

19 By the end of year four, the department shall implement an
20 organizational quality management system.

21 **Sec. 27.** RCW 70.05.070 and 2007 c 343 s 10 are each amended to
22 read as follows:

23 The local health officer, acting under the direction of the local
24 board of health or under direction of the administrative officer
25 appointed under RCW 70.05.040 or 70.05.035, if any, shall:

26 (1) Enforce the public health statutes of the state, rules of the
27 state board of health and the secretary of health, and all local health
28 rules, regulations and ordinances within his or her jurisdiction
29 including imposition of penalties authorized under RCW 70.119A.030 and
30 70.118.130, the confidentiality provisions in (~~RCW 70.24.105~~) section
31 6 of this act and rules adopted to implement those provisions, and
32 filing of actions authorized by RCW 43.70.190;

33 (2) Take such action as is necessary to maintain health and
34 sanitation supervision over the territory within his or her
35 jurisdiction;

36 (3) Control and prevent the spread of any dangerous, contagious or
37 infectious diseases that may occur within his or her jurisdiction;

1 (4) Inform the public as to the causes, nature, and prevention of
2 disease and disability and the preservation, promotion and improvement
3 of health within his or her jurisdiction;

4 (5) Prevent, control or abate nuisances which are detrimental to
5 the public health;

6 (6) Attend all conferences called by the secretary of health or his
7 or her authorized representative;

8 (7) Collect such fees as are established by the state board of
9 health or the local board of health for the issuance or renewal of
10 licenses or permits or such other fees as may be authorized by law or
11 by the rules of the state board of health;

12 (8) Inspect, as necessary, expansion or modification of existing
13 public water systems, and the construction of new public water systems,
14 to assure that the expansion, modification, or construction conforms to
15 system design and plans;

16 (9) Take such measures as he or she deems necessary in order to
17 promote the public health, to participate in the establishment of
18 health educational or training activities, and to authorize the
19 attendance of employees of the local health department or individuals
20 engaged in community health programs related to or part of the programs
21 of the local health department.

22 **Sec. 28.** RCW 70.24.450 and 1999 c 391 s 3 are each amended to read
23 as follows:

24 (1) In order to assure compliance with the protections under this
25 chapter and the rules of the board, and to assure public confidence in
26 the confidentiality of reported information, the department shall:

27 (a) Report annually to the board any incidents of unauthorized
28 disclosure by the department, local health departments, or their
29 employees of information protected under (~~RCW 70.24.105~~) section 6 of
30 this act. The report shall include recommendations for preventing
31 future unauthorized disclosures and improving the system of
32 confidentiality for reported information; and

33 (b) Assist health care providers, facilities that conduct tests,
34 local health departments, and other persons involved in disease
35 reporting to understand, implement, and comply with this chapter and
36 the rules of the board related to disease reporting.

1 (2) This section is exempt from RCW 70.24.084, 70.05.070, and
2 70.05.120.

3 **Sec. 29.** RCW 74.13.280 and 2009 c 520 s 72 are each amended to
4 read as follows:

5 (1) Except as provided in (~~RCW 70.24.105~~) section 6 of this act,
6 whenever a child is placed in out-of-home care by the department or a
7 supervising agency, the department or agency shall share information
8 known to the department or agency about the child and the child's
9 family with the care provider and shall consult with the care provider
10 regarding the child's case plan. If the child is dependent pursuant to
11 a proceeding under chapter 13.34 RCW, the department or supervising
12 agency shall keep the care provider informed regarding the dates and
13 location of dependency review and permanency planning hearings
14 pertaining to the child.

15 (2) Information about the child and the child's family shall
16 include information known to the department or agency as to whether the
17 child is a sexually reactive child, has exhibited high-risk behaviors,
18 or is physically assaultive or physically aggressive, as defined in
19 this section.

20 (3) Information about the child shall also include information
21 known to the department or agency that the child:

22 (a) Has received a medical diagnosis of fetal alcohol syndrome or
23 fetal alcohol effect;

24 (b) Has been diagnosed by a qualified mental health professional as
25 having a mental health disorder;

26 (c) Has witnessed a death or substantial physical violence in the
27 past or recent past; or

28 (d) Was a victim of sexual or severe physical abuse in the recent
29 past.

30 (4) Any person who receives information about a child or a child's
31 family pursuant to this section shall keep the information confidential
32 and shall not further disclose or disseminate the information except as
33 authorized by law. Care providers shall agree in writing to keep the
34 information that they receive confidential and shall affirm that the
35 information will not be further disclosed or disseminated, except as
36 authorized by law.

1 (5) Nothing in this section shall be construed to limit the
2 authority of the department or supervising agencies to disclose client
3 information or to maintain client confidentiality as provided by law.

4 (6) As used in this section:

5 (a) "Sexually reactive child" means a child who exhibits sexual
6 behavior problems including, but not limited to, sexual behaviors that
7 are developmentally inappropriate for their age or are harmful to the
8 child or others.

9 (b) "High-risk behavior" means an observed or reported and
10 documented history of one or more of the following:

11 (i) Suicide attempts or suicidal behavior or ideation;

12 (ii) Self-mutilation or similar self-destructive behavior;

13 (iii) Fire-setting or a developmentally inappropriate fascination
14 with fire;

15 (iv) Animal torture;

16 (v) Property destruction; or

17 (vi) Substance or alcohol abuse.

18 (c) "Physically assaultive or physically aggressive" means a child
19 who exhibits one or more of the following behaviors that are
20 developmentally inappropriate and harmful to the child or to others:

21 (i) Observed assaultive behavior;

22 (ii) Reported and documented history of the child willfully
23 assaulting or inflicting bodily harm; or

24 (iii) Attempting to assault or inflict bodily harm on other
25 children or adults under circumstances where the child has the apparent
26 ability or capability to carry out the attempted assaults including
27 threats to use a weapon.

28 **Sec. 30.** RCW 74.13.289 and 2009 c 520 s 76 are each amended to
29 read as follows:

30 (1) Upon any placement, the department or supervising agency shall
31 inform each out-of-home care provider if the child to be placed in that
32 provider's care is infected with a blood-borne pathogen, and shall
33 identify the specific blood-borne pathogen for which the child was
34 tested if known by the department or supervising agency.

35 (2) All out-of-home care providers licensed by the department shall
36 receive training related to blood-borne pathogens, including

1 prevention, transmission, infection control, treatment, testing, and
2 confidentiality.

3 (3) Any disclosure of information related to HIV must be in
4 accordance with (~~RCW 70.24.105~~) section 6 of this act.

5 (4) The department of health shall identify by rule the term
6 "blood-borne pathogen" as used in this section.

7 **Sec. 31.** RCW 71.05.425 and 2011 c 305 s 5 are each amended to read
8 as follows:

9 (1)(a) Except as provided in subsection (2) of this section, at the
10 earliest possible date, and in no event later than thirty days before
11 conditional release, final release, authorized leave under RCW
12 71.05.325(2), or transfer to a facility other than a state mental
13 hospital, the superintendent shall send written notice of conditional
14 release, release, authorized leave, or transfer of a person committed
15 under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex,
16 violent, or felony harassment offense pursuant to RCW 10.77.086(4) to
17 the following:

18 (i) The chief of police of the city, if any, in which the person
19 will reside; and

20 (ii) The sheriff of the county in which the person will reside.

21 (b) The same notice as required by (a) of this subsection shall be
22 sent to the following, if such notice has been requested in writing
23 about a specific person committed under RCW 71.05.280(3) or
24 71.05.320(3)(c) following dismissal of a sex, violent, or felony
25 harassment offense pursuant to RCW 10.77.086(4):

26 (i) The victim of the sex, violent, or felony harassment offense
27 that was dismissed pursuant to RCW 10.77.086(4) preceding commitment
28 under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin
29 if the crime was a homicide;

30 (ii) Any witnesses who testified against the person in any court
31 proceedings;

32 (iii) Any person specified in writing by the prosecuting attorney.
33 Information regarding victims, next of kin, or witnesses requesting the
34 notice, information regarding any other person specified in writing by
35 the prosecuting attorney to receive the notice, and the notice are
36 confidential and shall not be available to the person committed under
37 this chapter; and

1 (iv) The chief of police of the city, if any, and the sheriff of
2 the county, if any, which had jurisdiction of the person on the date of
3 the applicable offense.

4 (c) The thirty-day notice requirements contained in this subsection
5 shall not apply to emergency medical transfers.

6 (d) The existence of the notice requirements in this subsection
7 will not require any extension of the release date in the event the
8 release plan changes after notification.

9 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c)
10 following dismissal of a sex, violent, or felony harassment offense
11 pursuant to RCW 10.77.086(4) escapes, the superintendent shall
12 immediately notify, by the most reasonable and expedient means
13 available, the chief of police of the city and the sheriff of the
14 county in which the person escaped and in which the person resided
15 immediately before the person's arrest. If previously requested, the
16 superintendent shall also notify the witnesses and the victim of the
17 sex, violent, or felony harassment offense that was dismissed pursuant
18 to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or
19 71.05.320(3) or the victim's next of kin if the crime was a homicide.
20 In addition, the secretary shall also notify appropriate parties
21 pursuant to (~~RCW 71.05.390(18)~~) section 7(2)(n) of this act. If the
22 person is recaptured, the superintendent shall send notice to the
23 persons designated in this subsection as soon as possible but in no
24 event later than two working days after the department learns of such
25 recapture.

26 (3) If the victim, the victim's next of kin, or any witness is
27 under the age of sixteen, the notice required by this section shall be
28 sent to the parent or legal guardian of the child.

29 (4) The superintendent shall send the notices required by this
30 chapter to the last address provided to the department by the
31 requesting party. The requesting party shall furnish the department
32 with a current address.

33 (5) For purposes of this section the following terms have the
34 following meanings:

35 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

36 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

37 (c) "Next of kin" means a person's spouse, state registered
38 domestic partner, parents, siblings, and children;

1 (d) "Felony harassment offense" means a crime of harassment as
2 defined in RCW 9A.46.060 that is a felony.

3 **Sec. 32.** RCW 71.05.445 and 2009 c 320 s 4 are each amended to read
4 as follows:

5 (1)(a) When a mental health service provider conducts its initial
6 assessment for a person receiving court-ordered treatment, the service
7 provider shall inquire and shall be told by the offender whether he or
8 she is subject to supervision by the department of corrections.

9 (b) When a person receiving court-ordered treatment or treatment
10 ordered by the department of corrections discloses to his or her mental
11 health service provider that he or she is subject to supervision by the
12 department of corrections, the mental health service provider shall
13 notify the department of corrections that he or she is treating the
14 offender and shall notify the offender that his or her community
15 corrections officer will be notified of the treatment, provided that if
16 the offender has received relief from disclosure pursuant to RCW
17 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the
18 mental health service provider with a copy of the order granting relief
19 from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132,
20 the mental health service provider is not required to notify the
21 department of corrections that the mental health service provider is
22 treating the offender. The notification may be written or oral and
23 shall not require the consent of the offender. If an oral notification
24 is made, it must be confirmed by a written notification. For purposes
25 of this section, a written notification includes notification by e-mail
26 or facsimile, so long as the notifying mental health service provider
27 is clearly identified.

28 (2) The information to be released to the department of corrections
29 shall include all relevant records and reports, as defined by rule,
30 necessary for the department of corrections to carry out its duties.

31 (3) The department and the department of corrections, in
32 consultation with regional support networks, mental health service
33 providers as defined in RCW 71.05.020, mental health consumers, and
34 advocates for persons with mental illness, shall adopt rules to
35 implement the provisions of this section related to the type and scope
36 of information to be released. These rules shall:

1 (a) Enhance and facilitate the ability of the department of
2 corrections to carry out its responsibility of planning and ensuring
3 community protection with respect to persons subject to sentencing
4 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
5 disclosing information of persons who received mental health services
6 as a minor; and

7 (b) Establish requirements for the notification of persons under
8 the supervision of the department of corrections regarding the
9 provisions of this section.

10 (4) The information received by the department of corrections under
11 this section shall remain confidential and subject to the limitations
12 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW
13 72.09.585.

14 (5) No mental health service provider or individual employed by a
15 mental health service provider shall be held responsible for
16 information released to or used by the department of corrections under
17 the provisions of this section or rules adopted under this section
18 ((~~except under RCW 71.05.440~~)).

19 (6) Whenever federal law or federal regulations restrict the
20 release of information contained in the treatment records of any
21 patient who receives treatment for alcoholism or drug dependency, the
22 release of the information may be restricted as necessary to comply
23 with federal law and regulations.

24 (7) This section does not modify the terms and conditions of
25 disclosure of information related to sexually transmitted diseases
26 under chapter 70.24 RCW.

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

34 **Sec. 33.** RCW 72.09.585 and 2011 1st sp.s. c 40 s 24 are each
35 amended to read as follows:

36 (1) When the department is determining an offender's risk
37 management level, the department shall inquire of the offender and

1 shall be told whether the offender is subject to court-ordered
2 treatment for mental health services or chemical dependency services.
3 The department shall request and the offender shall provide an
4 authorization to release information form that meets applicable state
5 and federal requirements and shall provide the offender with written
6 notice that the department will request the offender's mental health
7 and substance abuse treatment information. An offender's failure to
8 inform the department of court-ordered treatment is a violation of the
9 conditions of supervision if the offender is in the community and an
10 infraction if the offender is in confinement, and the violation or
11 infraction is subject to sanctions.

12 (2) When an offender discloses that he or she is subject to court-
13 ordered mental health services or chemical dependency treatment, the
14 department shall provide the mental health services provider or
15 chemical dependency treatment provider with a written request for
16 information and any necessary authorization to release information
17 forms. The written request shall comply with rules adopted by the
18 department of social and health services or protocols developed jointly
19 by the department and the department of social and health services. A
20 single request shall be valid for the duration of the offender's
21 supervision in the community. Disclosures of information related to
22 mental health services made pursuant to a department request shall not
23 require consent of the offender.

24 (3) The information received by the department under RCW 71.05.445
25 or (~~71.34.345~~) section 9 of this act may be released to the
26 indeterminate sentence review board as relevant to carry out its
27 responsibility of planning and ensuring community protection with
28 respect to persons under its jurisdiction. Further disclosure by the
29 indeterminate sentence review board is subject to the limitations set
30 forth in subsections (5) and (6) of this section and must be consistent
31 with the written policy of the indeterminate sentence review board.
32 The decision to disclose or not shall not result in civil liability for
33 the indeterminate sentence review board or staff assigned to perform
34 board-related duties provided that the decision was reached in good
35 faith and without gross negligence.

36 (4) The information received by the department under RCW 71.05.445
37 or (~~71.34.345~~) section 9 of this act may be used to meet the
38 statutory duties of the department to provide evidence or report to the

1 court. Disclosure to the public of information provided to the court
2 by the department related to mental health services shall be limited in
3 accordance with RCW 9.94A.500 or this section.

4 (5) The information received by the department under RCW 71.05.445
5 or (~~71.34.345~~) section 9 of this act may be disclosed by the
6 department to other state and local agencies as relevant to plan for
7 and provide offenders transition, treatment, and supervision services,
8 or as relevant and necessary to protect the public and counteract the
9 danger created by a particular offender, and in a manner consistent
10 with the written policy established by the secretary. The decision to
11 disclose or not shall not result in civil liability for the department
12 or its employees so long as the decision was reached in good faith and
13 without gross negligence. The information received by a state or local
14 agency from the department shall remain confidential and subject to the
15 limitations on disclosure set forth in chapters 70.02, 71.05, and 71.34
16 RCW and, subject to these limitations, may be released only as relevant
17 and necessary to counteract the danger created by a particular
18 offender.

19 (6) The information received by the department under RCW 71.05.445
20 or (~~71.34.345~~) section 9 of this act may be disclosed by the
21 department to individuals only with respect to offenders who have been
22 determined by the department to have a high risk of reoffending by a
23 risk assessment, as defined in RCW 9.94A.030, only as relevant and
24 necessary for those individuals to take reasonable steps for the
25 purpose of self-protection, or as provided in RCW 72.09.370(2). The
26 information may not be disclosed for the purpose of engaging the public
27 in a system of supervision, monitoring, and reporting offender behavior
28 to the department. The department must limit the disclosure of
29 information related to mental health services to the public to
30 descriptions of an offender's behavior, risk he or she may present to
31 the community, and need for mental health treatment, including
32 medications, and shall not disclose or release to the public copies of
33 treatment documents or records, except as otherwise provided by law.
34 All disclosure of information to the public must be done in a manner
35 consistent with the written policy established by the secretary. The
36 decision to disclose or not shall not result in civil liability for the
37 department or its employees so long as the decision was reached in good

1 faith and without gross negligence. Nothing in this subsection
2 prevents any person from reporting to law enforcement or the department
3 behavior that he or she believes creates a public safety risk.

4 **Sec. 34.** RCW 9.94A.500 and 2008 c 231 s 2 are each amended to read
5 as follows:

6 (1) Before imposing a sentence upon a defendant, the court shall
7 conduct a sentencing hearing. The sentencing hearing shall be held
8 within forty court days following conviction. Upon the motion of
9 either party for good cause shown, or on its own motion, the court may
10 extend the time period for conducting the sentencing hearing.

11 Except in cases where the defendant shall be sentenced to a term of
12 total confinement for life without the possibility of release or, when
13 authorized by RCW 10.95.030 for the crime of aggravated murder in the
14 first degree, sentenced to death, the court may order the department to
15 complete a risk assessment report. If available before sentencing, the
16 report shall be provided to the court.

17 Unless specifically waived by the court, the court shall order the
18 department to complete a chemical dependency screening report before
19 imposing a sentence upon a defendant who has been convicted of a
20 violation of the uniform controlled substances act under chapter 69.50
21 RCW, a criminal solicitation to commit such a violation under chapter
22 9A.28 RCW, or any felony where the court finds that the offender has a
23 chemical dependency that has contributed to his or her offense. In
24 addition, the court shall, at the time of plea or conviction, order the
25 department to complete a presentence report before imposing a sentence
26 upon a defendant who has been convicted of a felony sexual offense.
27 The department of corrections shall give priority to presentence
28 investigations for sexual offenders. If the court determines that the
29 defendant may be a mentally ill person as defined in RCW 71.24.025,
30 although the defendant has not established that at the time of the
31 crime he or she lacked the capacity to commit the crime, was
32 incompetent to commit the crime, or was insane at the time of the
33 crime, the court shall order the department to complete a presentence
34 report before imposing a sentence.

35 The court shall consider the risk assessment report and presentence
36 reports, if any, including any victim impact statement and criminal
37 history, and allow arguments from the prosecutor, the defense counsel,

1 the offender, the victim, the survivor of the victim, or a
2 representative of the victim or survivor, and an investigative law
3 enforcement officer as to the sentence to be imposed.

4 A criminal history summary relating to the defendant from the
5 prosecuting authority or from a state, federal, or foreign governmental
6 agency shall be prima facie evidence of the existence and validity of
7 the convictions listed therein. If the court is satisfied by a
8 preponderance of the evidence that the defendant has a criminal
9 history, the court shall specify the convictions it has found to exist.
10 All of this information shall be part of the record. Copies of all
11 risk assessment reports and presentence reports presented to the
12 sentencing court and all written findings of facts and conclusions of
13 law as to sentencing entered by the court shall be sent to the
14 department by the clerk of the court at the conclusion of the
15 sentencing and shall accompany the offender if the offender is
16 committed to the custody of the department. Court clerks shall
17 provide, without charge, certified copies of documents relating to
18 criminal convictions requested by prosecuting attorneys.

19 (2) To prevent wrongful disclosure of information and records
20 related to mental health services, as ~~((defined))~~ described in RCW
21 71.05.445 and ~~((71.34.345))~~ section 9 of this act, a court may take
22 only those steps necessary during a sentencing hearing or any hearing
23 in which the department presents information related to mental health
24 services to the court. The steps may be taken on motion of the
25 defendant, the prosecuting attorney, or on the court's own motion. The
26 court may seal the portion of the record relating to information
27 relating to mental health services, exclude the public from the hearing
28 during presentation or discussion of information and records relating
29 to mental health services, or grant other relief to achieve the result
30 intended by this subsection, but nothing in this subsection shall be
31 construed to prevent the subsequent release of information and records
32 related to mental health services as authorized by RCW 71.05.445,
33 ~~((71.34.345))~~ section 9 of this act, or 72.09.585. Any person who
34 otherwise is permitted to attend any hearing pursuant to chapter 7.69
35 or 7.69A RCW shall not be excluded from the hearing solely because the
36 department intends to disclose or discloses information related to
37 mental health services.

1 NEW SECTION. **Sec. 35.** The following acts or parts of acts are
2 each repealed:

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

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

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

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

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

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

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

19 (8) RCW 71.05.630 (Treatment records--Confidential--Release) and
20 2009 c 398 s 1, 2009 c 320 s 5, 2009 c 217 s 8, 2007 c 191 s 1, 2005 c
21 504 s 112, 2000 c 75 s 5, & 1989 c 205 s 13;

22 (9) RCW 71.05.690 (Treatment records--Rules) and 2005 c 504 s 714
23 & 1999 c 13 s 12;

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

27 (11) RCW 71.34.345 (Mental health services information--Release to
28 department of corrections--Rules) and 2004 c 166 s 8, 2002 c 39 s 1, &
29 2000 c 75 s 2; and

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

32 NEW SECTION. **Sec. 36.** Except for section 5 of this act, this act
33 takes effect July 1, 2014.

34 NEW SECTION. **Sec. 37.** Section 5 of this act is necessary for the
35 immediate preservation of the public peace, health, or safety, or

1 support of the state government and its existing public institutions,
2 and takes effect immediately.

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