
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; and providing an effective date.

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.

1 (21) "Information and records related to sexually transmitted
2 diseases" means a type of health care information that relates to the
3 identity of any person upon whom an HIV antibody test or other sexually
4 transmitted infection test is performed, the results of such tests, and
5 any information relating to diagnosis of or treatment for any confirmed
6 sexually transmitted infections.

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

12 ~~((+11))~~ (23) "Legal counsel" has the same meaning as in RCW
13 71.05.020.

14 (24) "Local public health officer" has the same meaning as in RCW
15 70.24.017.

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

18 ~~((+12))~~ (26) "Mental health professional" has the same meaning as
19 in RCW 71.05.020.

20 (27) "Mental health service agency" means a public or private
21 agency that provides services to persons with mental disorders as
22 defined under RCW 71.05.020 and 71.34.020 and receives funding from
23 public sources. This includes evaluation and treatment facilities as
24 defined in RCW 71.34.020, community mental health service delivery
25 systems, or community mental health programs, as defined in RCW
26 71.24.025, and facilities conducting competency evaluations and
27 restoration under chapter 10.77 RCW.

28 (28) "Mental health treatment records" include registration
29 records, as defined in RCW 71.05.020, and all other records concerning
30 persons who are receiving or who at any time have received services for
31 mental illness, which are maintained by the department, by regional
32 support networks and their staff, and by treatment facilities. "Mental
33 health treatment records" include mental health information contained
34 in a medical bill including, but not limited to, mental health drugs,
35 a mental health diagnosis, provider name, and dates of service stemming
36 from a medical service. "Mental health treatment records" do not
37 include notes or records maintained for personal use by a person

1 providing treatment services for the department, regional support
2 networks, or a treatment facility if the notes or records are not
3 available to others.

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

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

6 (31) "Patient" means an individual who receives or has received
7 health care. The term includes a deceased individual who has received
8 health care.

9 ~~((13))~~ (32) "Payment" means:

10 (a) The activities undertaken by:

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

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

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

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

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

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

28 (iv) Review of health care services with respect to medical
29 necessity, coverage under a health plan, appropriateness of care, or
30 justification of charges;

31 (v) Utilization review activities, including precertification and
32 preauthorization of services, and concurrent and retrospective review
33 of services; and

34 (vi) Disclosure to consumer reporting agencies of any of the
35 following health care information relating to collection of premiums or
36 reimbursement:

37 (A) Name and address;

38 (B) Date of birth;

1 (C) Social security number;

2 (D) Payment history;

3 (E) Account number; and

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

6 ~~((+14+))~~ (33) "Person" means an individual, corporation, business
7 trust, estate, trust, partnership, association, joint venture,
8 government, governmental subdivision or agency, or any other legal or
9 commercial entity.

10 ~~((+15+))~~ (34) "Professional person" has the same meaning as in RCW
11 71.05.020.

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

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

25 ~~((+16+))~~ (37) "Release" has the same meaning as in RCW 71.05.020.

26 (38) "Resource management services" has the same meaning as in RCW
27 71.05.020.

28 (39) "Serious violent offense" has the same meaning as in RCW
29 71.05.020.

30 (40) "Sexually transmitted infection" or "sexually transmitted
31 disease" has the same meaning as "sexually transmitted disease" in RCW
32 70.24.017.

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

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

1 maintenance organization; or an employee welfare benefit plan,
2 excluding fitness or wellness plans; or a state or federal health
3 benefit program.

4 ~~((+17))~~ (43) "Treatment" means the provision, coordination, or
5 management of health care and related services by one or more health
6 care providers or health care facilities, including the coordination or
7 management of health care by a health care provider or health care
8 facility with a third party; consultation between health care providers
9 or health care facilities relating to a patient; or the referral of a
10 patient for health care from one health care provider or health care
11 facility to another.

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

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

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

25 (a) That are only maintained in a nonelectronic format or medium
26 and relate to disclosures:

27 (i) To carry out treatment, payment, and health care operations;

28 ~~((+b))~~ (ii) To the patient of health care information about him or
29 her;

30 ~~((+c))~~ (iii) Incident to ~~((a use or disclosure that is otherwise~~
31 ~~permitted or required))~~ emergency department services;

32 ~~((+d))~~ (iv) Pursuant to an authorization where the patient
33 authorized the disclosure of health care information about himself or
34 herself;

35 ~~((+e))~~ (v) Of directory information;

36 ~~((+f))~~ (vi) To persons involved in the patient's care;

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

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

12 (1) A health care provider or health care facility may disclose
13 health care information, except for information and records related to
14 sexually transmitted diseases, about a patient without the patient's
15 authorization to the extent a recipient needs to know the information,
16 if the disclosure is:

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

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

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

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

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

36 ~~(d) To any person if the health care provider or health care~~
37 ~~facility reasonably believes that disclosure will avoid or minimize an~~

1 ~~imminent danger to the health or safety of the patient or any other~~
2 ~~individual, however there is no obligation under this chapter on the~~
3 ~~part of the provider or facility to so disclose;~~

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

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

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

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

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

19 ~~(iii) Contains reasonable safeguards to protect the information~~
20 ~~from redisclosure;~~

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

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

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

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

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

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

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

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

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

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

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

31 (2) A health care provider shall disclose health care information,
32 except for information and records related to sexually transmitted
33 diseases, about a patient without the patient's authorization if the
34 disclosure is:

35 (a) To federal, state, or local public health authorities, to the
36 extent the health care provider is required by law to report health
37 care information; when needed to determine compliance with state or
38 federal licensure, certification or registration rules or laws, or to

1 investigate unprofessional conduct or ability to practice with
2 reasonable skill and safety under chapter 18.130 RCW. Any health care
3 information obtained under this subsection is exempt from public
4 inspection and copying pursuant to chapter 42.56 RCW; or

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

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

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

- 19 ~~(i) The name of the patient;~~
- 20 ~~(ii) The patient's residence;~~
- 21 ~~(iii) The patient's sex;~~
- 22 ~~(iv) The patient's age;~~
- 23 ~~(v) The patient's condition;~~
- 24 ~~(vi) The patient's diagnosis, or extent and location of injuries as~~
25 ~~determined by a health care provider;~~
- 26 ~~(vii) Whether the patient was conscious when admitted;~~
- 27 ~~(viii) The name of the health care provider making the~~
28 ~~determination in (c)(v), (vi), and (vii) of this subsection;~~
- 29 ~~(ix) Whether the patient has been transferred to another facility;~~

30 and

- 31 ~~(x) The patient's discharge time and date;~~
- 32 ~~(d) To county coroners and medical examiners for the investigations~~
33 ~~of deaths;~~
- 34 ~~(e) Pursuant to compulsory process in accordance with RCW~~
35 ~~70.02.060.~~

36 ~~(3) All state or local agencies obtaining patient health care~~
37 ~~information pursuant to this section shall adopt rules establishing~~

1 ~~their record acquisition, retention, and security policies that are~~
2 ~~consistent with this chapter~~)).

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

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

9 (a) Any other health care provider or health care facility
10 reasonably believed to have previously provided health care to the
11 patient, to the extent necessary to provide health care to the patient,
12 unless the patient has instructed the health care provider or health
13 care facility in writing not to make the disclosure;

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

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

25 (d) A health care provider or health care facility who is the
26 successor in interest to the health care provider or health care
27 facility maintaining the health care information;

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

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

33 (ii) Not to disclose the information further, except to accomplish
34 the audit or report unlawful or improper conduct involving fraud in
35 payment for health care by a health care provider or patient, or other
36 unlawful conduct by the health care provider;

1 (f) Provide directory information, unless the patient has
2 instructed the health care provider or health care facility not to make
3 the disclosure;

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

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

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

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

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

31 (b) To federal, state, or local law enforcement authorities, upon
32 receipt of a written or oral request made to a nursing supervisor,
33 administrator, or designated privacy official, in a case in which the
34 patient is being treated or has been treated for a bullet wound,
35 gunshot wound, powder burn, or other injury arising from or caused by
36 the discharge of a firearm, or an injury caused by a knife, an ice
37 pick, or any other sharp or pointed instrument which federal, state, or
38 local law enforcement authorities reasonably believe to have been

1 intentionally inflicted upon a person, or a blunt force injury that
2 federal, state, or local law enforcement authorities reasonably believe
3 resulted from a criminal act, the following information, if known:

4 (i) The name of the patient;

5 (ii) The patient's residence;

6 (iii) The patient's sex;

7 (iv) The patient's age;

8 (v) The patient's condition;

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

11 (vii) Whether the patient was conscious when admitted;

12 (viii) The name of the health care provider making the
13 determination in (b)(v), (vi), and (vii) of this subsection;

14 (ix) Whether the patient has been transferred to another facility;
15 and

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

17 (c) Pursuant to compulsory process in accordance with RCW
18 70.02.060.

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

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

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

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

30 (c) Contains reasonable safeguards to protect the information from
31 redisclosure;

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

35 (e) Contains procedures to remove or destroy at the earliest
36 opportunity, consistent with the purposes of the project, information

1 that would enable the patient to be identified, unless an institutional
2 review board authorizes retention of identifying information for
3 purposes of another research project.

4 (2) A health care provider or health care facility shall disclose
5 health care information about a patient without the patient's
6 authorization if the disclosure is to county coroners and medical
7 examiners for the investigations of deaths.

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

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

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

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

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

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

33 (d) Any state or local public health officer conducting an
34 investigation pursuant to RCW 70.24.024, so long as the record was
35 obtained by means of court-ordered HIV testing pursuant to RCW
36 70.24.340 or 70.24.024;

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

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

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

29 (h) Claims management personnel employed by or associated with an
30 insurer, health care service contractor, health maintenance
31 organization, self-funded health plan, state administered health care
32 claims payer, or any other payer of health care claims where such
33 disclosure is to be used solely for the prompt and accurate evaluation
34 and payment of medical or related claims. Information released under
35 this subsection must be confidential and may not be released or
36 available to persons who are not involved in handling or determining
37 medical claims payment; and

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

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

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

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

33 (b) The sexually transmitted disease status of a person detained in
34 a jail who has had a mandatory test conducted pursuant to RCW
35 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the
36 local public health officer to a jail health care administrator or
37 infection control coordinator. The information made available to a
38 health care administrator under this subsection (4)(b) may be used only

1 for disease prevention or control and for protection of the safety and
2 security of the staff, offenders, detainees, and the public. The
3 information may be submitted to transporting officers and receiving
4 facilities according to the provisions of (d) and (e) of this
5 subsection.

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

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

31 (e) The staff member must also be informed whether the offender or
32 detained person had any other communicable disease, as defined in RCW
33 72.09.251(3), when the staff person was substantially exposed to the
34 offender's or detainee's bodily fluids.

35 (f) The test results of voluntary and anonymous HIV testing or HIV-
36 related condition, as defined in RCW 70.24.017, may not be disclosed to
37 a staff person except as provided in this section and RCW
38 70.02.050(1)(d) and 70.24.340(4). A health care administrator or

1 infection control coordinator may provide the staff member with
2 information about how to obtain the offender's or detainee's test
3 results under this section and RCW 70.02.050(1)(d) and 70.24.340(4).

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

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

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

18 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
19 70.96A.150, 74.09.295, sections 5, 8, 9, and 10 of this act, or
20 pursuant to a valid authorization under RCW 70.02.030, the fact of
21 admission to a provider for mental health services and all information
22 and records compiled, obtained, or maintained in the course of
23 providing mental health services to either voluntary or involuntary
24 recipients of services at public or private agencies must be
25 confidential.

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

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

- 33 (i) Employed by the facility;
- 34 (ii) Who has medical responsibility for the patient's care;
- 35 (iii) Who is a designated mental health professional;
- 36 (iv) Who is providing services under chapter 71.24 RCW;

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

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

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

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

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

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

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

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

25 (d)(i) To the courts as necessary to the administration of chapter
26 71.05 RCW or to a court ordering an evaluation or treatment under
27 chapter 10.77 RCW solely for the purpose of preventing the entry of any
28 evaluation or treatment order that is inconsistent with any order
29 entered under chapter 71.05 RCW.

30 (ii) To a court or its designee in which a motion under chapter
31 10.77 RCW has been made for involuntary medication of a defendant for
32 the purpose of competency restoration.

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

35 (e)(i) When a mental health professional is requested by a
36 representative of a law enforcement or corrections agency, including a
37 police officer, sheriff, community corrections officer, a municipal
38 attorney, or prosecuting attorney to undertake an investigation or

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

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

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

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

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

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

35 (i)(i) To appropriate corrections and law enforcement agencies all
36 necessary and relevant information in the event of a crisis or emergent
37 situation that poses a significant and imminent risk to the public.

1 The mental health service agency or its employees are not civilly
2 liable for the decision to disclose or not so long as the decision was
3 reached in good faith and without gross negligence.

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

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

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

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

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

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

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

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

37 (n) When a patient would otherwise be subject to the provisions of
38 this section and disclosure is necessary for the protection of the

1 patient or others due to his or her unauthorized disappearance from the
2 facility, and his or her whereabouts is unknown, notice of the
3 disappearance, along with relevant information, may be made to
4 relatives, the department of corrections when the person is under the
5 supervision of the department, and governmental law enforcement
6 agencies designated by the physician or psychiatric advanced registered
7 nurse practitioner in charge of the patient or the professional person
8 in charge of the facility, or his or her professional designee;

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

10 (p) To qualified staff members of the department, to the director
11 of regional support networks, to resource management services
12 responsible for serving a patient, or to service providers designated
13 by resource management services as necessary to determine the progress
14 and adequacy of treatment and to determine whether the person should be
15 transferred to a less restrictive or more appropriate treatment
16 modality or facility;

17 (q) Within the treatment facility where the patient is receiving
18 treatment, confidential information may be disclosed to persons
19 employed, serving in bona fide training programs, or participating in
20 supervised volunteer programs, at the facility when it is necessary to
21 perform their duties;

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

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

31 (t) Consistent with the requirements of the federal health
32 information portability and accountability act, to a licensed mental
33 health professional or a health care professional licensed under
34 chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is
35 providing care to a person, or to whom a person has been referred for
36 evaluation or treatment, to assure coordinated care and treatment of
37 that person. Psychotherapy notes, as defined in 45 C.F.R. Sec.

1 164.501, may not be released without authorization of the person who is
2 the subject of the request for release of information;

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

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

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

20 (x) To staff members of the protection and advocacy agency or to
21 staff members of a private, nonprofit corporation for the purpose of
22 protecting and advocating the rights of persons with mental disorders
23 or developmental disabilities. Resource management services may limit
24 the release of information to the name, birthdate, and county of
25 residence of the patient, information regarding whether the patient was
26 voluntarily admitted, or involuntarily committed, the date and place of
27 admission, placement, or commitment, the name and address of a guardian
28 of the patient, and the date and place of the guardian's appointment.
29 Any staff member who wishes to obtain additional information must
30 notify the patient's resource management services in writing of the
31 request and of the resource management services' right to object. The
32 staff member shall send the notice by mail to the guardian's address.
33 If the guardian does not object in writing within fifteen days after
34 the notice is mailed, the staff member may obtain the additional
35 information. If the guardian objects in writing within fifteen days
36 after the notice is mailed, the staff member may not obtain the
37 additional information;

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

12 (3) Whenever federal law or federal regulations restrict the
13 release of information contained in the treatment records of any
14 patient who receives treatment for chemical dependency, the department
15 may restrict the release of the information as necessary to comply with
16 federal law and regulations.

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

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

1 finds that appropriate safeguards for strict confidentiality are and
2 will be maintained.

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

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

10 (1) In communications between mental health professionals to meet
11 the requirements of chapter 71.34 RCW, in the provision of services to
12 the minor, or in making appropriate referrals;

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

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

16 (4) To the courts as necessary to administer chapter 71.34 RCW;

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

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

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

36 "As a condition of conducting evaluation or research concerning
37 persons who have received services from (fill in the facility, agency,

1 or person) I,, agree not to divulge, publish, or otherwise
2 make known to unauthorized persons or the public any information
3 obtained in the course of such evaluation or research regarding minors
4 who have received services in a manner such that the minor is
5 identifiable.

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

8 /s/";

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

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

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

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

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

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

37 (a) Only the fact, place, and date of involuntary commitment, an
38 official copy of any order or orders of commitment, and an official

1 copy of any written or oral notice of ineligibility to possess a
2 firearm that was provided to the person pursuant to RCW 9.41.047(1),
3 must be disclosed upon request;

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

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

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

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

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

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

27 (1) Information and records related to mental health services
28 delivered to a person subject to chapter 9.94A or 9.95 RCW must be
29 released, upon request, by a mental health service agency to department
30 of corrections personnel for whom the information is necessary to carry
31 out the responsibilities of their office. The information must be
32 provided only for the purpose of completing presentence investigations,
33 supervision of an incarcerated person, planning for and provision of
34 supervision of a person, or assessment of a person's risk to the
35 community. The request must be in writing and may not require the
36 consent of the subject of the records.

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

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

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

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

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

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

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

36 (7) Whenever federal law or federal regulations restrict the
37 release of information contained in the treatment records of any

1 patient who receives treatment for alcoholism or drug dependency, the
2 release of the information may be restricted as necessary to comply
3 with federal law and regulations.

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

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

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

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

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

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

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

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

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

29 (2) The information subject to release under subsection (1) of this
30 section must be released to law enforcement officers, personnel of a
31 county or city jail, designated mental health professionals, public
32 health officers, therapeutic court personnel as defined in RCW
33 71.05.020, or personnel of the department of corrections, including the
34 indeterminate sentence review board and personnel assigned to perform
35 board-related duties, when such information is requested during the
36 course of business and for the purpose of carrying out the
37 responsibilities of the requesting person's office. No mental health

1 service agency or person employed by a mental health service agency, or
2 its legal counsel, may be liable for information released to or used
3 under the provisions of this section or rules adopted under this
4 section except under RCW 71.05.680.

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

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

11 (i) Completing presentence investigations or risk assessment
12 reports;

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

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

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

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

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

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

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

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

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

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

6 (iii) As provided in RCW 72.09.585.

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

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

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

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

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

36 (9) In collaboration with interested organizations, the department
37 shall develop a standard form for requests for information related to
38 mental health services made under this section and a standard format

1 for information provided in response to the requests. Consistent with
2 the goals of the health information privacy provisions of the federal
3 health insurance portability and accountability act, in developing the
4 standard form for responsive information, the department shall design
5 the form in such a way that the information disclosed is limited to the
6 minimum necessary to serve the purpose for which the information is
7 requested.

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

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

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

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

28 A health care provider, health care facility, and their assistants,
29 employees, agents, and contractors may not use or disclose health care
30 information for marketing or fund-raising purposes or sell health care
31 information to a third party, except in a form that is deidentified and
32 aggregated.

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

35 (1) (~~Before service of~~) A discovery request or compulsory process

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

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

22 (3) ~~Production of health care information under this section, in~~
23 ~~and of itself, does not constitute a waiver of any privilege,~~
24 ~~objection, or defense existing under other law or rule of evidence or~~
25 ~~procedure)) for health care information must be made in accordance with~~
26 ~~the appropriate civil rules of superior court and include service of a~~
27 ~~copy of the subpoena on the patient whose records are being sought for~~
28 ~~disclosure.~~

29 (2) Upon receipt of such a request or process, the health care
30 provider shall provide a copy to the patient at the patient's last
31 known address, to the patient's attorney, if known, unless after
32 reasonable inquiry the health care provider is unable to determine the
33 last known address of the patient.

34 (3) On sending a copy of the request or process as provided in
35 subsection (2) of this section, the health care provider has no further
36 obligation to assert a state or federal privilege pertaining to the
37 records or to appear or respond to a motion to compel production of
38 records, and shall produce the records if ordered by a court. If an

1 objection is timely filed by the patient, the patient or the patient's
2 attorney is responsible for asserting or waiving any state or federal
3 privilege that pertains to the records.

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

6 All state or local agencies obtaining patient health care
7 information pursuant to RCW 70.02.050 and sections 4 through 7 of this
8 act shall adopt rules establishing their record acquisition, retention,
9 and security policies that are consistent with this chapter.

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

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

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

26 (1) Resource management services shall establish procedures to
27 provide reasonable and timely access to individual mental health
28 treatment records. However, access may not be denied at any time to
29 records of all medications and somatic treatments received by the
30 person.

31 (2) Following discharge, a person who has received mental health
32 services has a right to a complete record of all medications and
33 somatic treatments prescribed during evaluation, admission, or
34 commitment and to a copy of the discharge summary prepared at the time

1 of his or her discharge. A reasonable and uniform charge for
2 reproduction may be assessed.

3 (3) Mental health treatment records may be modified prior to
4 inspection to protect the confidentiality of other patients or the
5 names of any other persons referred to in the record who gave
6 information on the condition that his or her identity remain
7 confidential. Entire documents may not be withheld to protect such
8 confidentiality.

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

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

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

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

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

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

27 The department of social and health services shall adopt rules
28 related to the disclosure of mental health treatment records in this
29 chapter.

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

32 In addition to any other information required to be released under
33 this chapter, the department of social and health services is
34 authorized, pursuant to RCW 4.24.550, to release relevant information

1 that is necessary to protect the public, concerning a specific person
2 committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal
3 of a sex offense as defined in RCW 9.94A.030.

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

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

10 (2) This chapter does not modify the terms and conditions of
11 disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, 70.96A,
12 (~~71.05, 71.34,~~) and 74.09 RCW and rules adopted under these
13 provisions.

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

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

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

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

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

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

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

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

3 (1) The department is designated as the state mental health
4 authority.

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

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

13 (4) The secretary shall be designated as the regional support
14 network if the regional support network fails to meet state minimum
15 standards or refuses to exercise responsibilities under RCW 71.24.045,
16 until such time as a new regional support network is designated under
17 RCW 71.24.320.

18 (5) The secretary shall:

19 (a) Develop a biennial state mental health program that
20 incorporates regional biennial needs assessments and regional mental
21 health service plans and state services for adults and children with
22 mental illness. The secretary shall also develop a six-year state
23 mental health plan;

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

31 (A) Outpatient services;

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

33 (C) Day treatment for persons with mental illness which includes
34 training in basic living and social skills, supported work, vocational
35 rehabilitation, and day activities. Such services may include
36 therapeutic treatment. In the case of a child, day treatment includes
37 age-appropriate basic living and social skills, educational and
38 prevocational services, day activities, and therapeutic treatment;

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

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

10 (F) Consultation and education services; and

11 (G) Community support services;

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

15 (i) Licensed service providers. These rules shall permit a county-
16 operated mental health program to be licensed as a service provider
17 subject to compliance with applicable statutes and rules. The
18 secretary shall provide for deeming of compliance with state minimum
19 standards for those entities accredited by recognized behavioral health
20 accrediting bodies recognized and having a current agreement with the
21 department;

22 (ii) Regional support networks; and

23 (iii) Inpatient services, evaluation and treatment services and
24 facilities under chapter 71.05 RCW, resource management services, and
25 community support services;

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

30 (e) Establish a standard contract or contracts, consistent with
31 state minimum standards, RCW 71.24.320 and 71.24.330, which shall be
32 used in contracting with regional support networks. The standard
33 contract shall include a maximum fund balance, which shall be
34 consistent with that required by federal regulations or waiver
35 stipulations;

36 (f) Establish, to the extent possible, a standardized auditing
37 procedure which minimizes paperwork requirements of regional support

1 networks and licensed service providers. The audit procedure shall
2 focus on the outcomes of service and not the processes for
3 accomplishing them;

4 (g) Develop and maintain an information system to be used by the
5 state and regional support networks that includes a tracking method
6 which allows the department and regional support networks to identify
7 mental health clients' participation in any mental health service or
8 public program on an immediate basis. The information system shall not
9 include individual patient's case history files. Confidentiality of
10 client information and records shall be maintained as provided in this
11 chapter and ((in RCW 71.05.390, 71.05.420, and 71.05.440)) chapter
12 70.02 RCW;

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

14 (i) Certify regional support networks that meet state minimum
15 standards;

16 (j) Periodically monitor the compliance of certified regional
17 support networks and their network of licensed service providers for
18 compliance with the contract between the department, the regional
19 support network, and federal and state rules at reasonable times and in
20 a reasonable manner;

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

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

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

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

32 (o) Certify crisis stabilization units that meet state minimum
33 standards;

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

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

36 (6) The secretary shall use available resources only for regional
37 support networks, except to the extent authorized, and in accordance

1 with any priorities or conditions specified, in the biennial
2 appropriations act.

3 (7) Each certified regional support network and licensed service
4 provider shall file with the secretary, on request, such data,
5 statistics, schedules, and information as the secretary reasonably
6 requires. A certified regional support network or licensed service
7 provider which, without good cause, fails to furnish any data,
8 statistics, schedules, or information as requested, or files fraudulent
9 reports thereof, may have its certification or license revoked or
10 suspended.

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

15 (9) The superior court may restrain any regional support network or
16 service provider from operating without certification or a license or
17 any other violation of this section. The court may also review,
18 pursuant to procedures contained in chapter 34.05 RCW, any denial,
19 suspension, limitation, restriction, or revocation of certification or
20 license, and grant other relief required to enforce the provisions of
21 this chapter.

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

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

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

1 (13) The standards for certification of crisis stabilization units
2 shall include standards that:

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

5 (b) Require administration of the unit by mental health
6 professionals who direct the stabilization and rehabilitation efforts;
7 and

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

10 (14) The standards for certification of a clubhouse shall at a
11 minimum include:

12 (a) The facilities may be peer-operated and must be
13 recovery-focused;

14 (b) Members and employees must work together;

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

19 (d) Members and staff and ultimately the clubhouse director must be
20 responsible for the operation of the clubhouse, central to this
21 responsibility is the engagement of members and staff in all aspects of
22 clubhouse operations;

23 (e) Clubhouse programs must be comprised of structured activities
24 including but not limited to social skills training, vocational
25 rehabilitation, employment training and job placement, and community
26 resource development;

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

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

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

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

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

7 The regional support networks, or the secretary's assumption of all
8 responsibilities under chapters 71.05((~~7~~)) and 71.34((~~7~~)) RCW and
9 ((~~71.24~~—RCW)) this chapter, shall be included in all state and federal
10 plans affecting the state mental health program including at least
11 those required by this chapter, the medicaid program, and P.L. 99-660.
12 Nothing in these plans shall be inconsistent with the intent and
13 requirements of this chapter.

14 (17) The secretary shall:

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

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

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

27 (d) Deny all or part of the funding allocations to regional support
28 networks based solely upon formal findings of noncompliance with the
29 terms of the regional support network's contract with the department.
30 Regional support networks disputing the decision of the secretary to
31 withhold funding allocations are limited to the remedies provided in
32 the department's contracts with the regional support networks.

33 (18) The department, in cooperation with the state congressional
34 delegation, shall actively seek waivers of federal requirements and
35 such modifications of federal regulations as are necessary to allow
36 federal medicaid reimbursement for services provided by freestanding
37 evaluation and treatment facilities certified under chapter 71.05 RCW.

1 The department shall periodically report its efforts to the appropriate
2 committees of the senate and the house of representatives.

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

5 The department shall annually conduct a Washington homeless census
6 or count consistent with the requirements of RCW ((~~43.63A.655~~)
7 43.185C.180). The census shall make every effort to count all homeless
8 individuals living outdoors, in shelters, and in transitional housing,
9 coordinated, when reasonably feasible, with already existing homeless
10 census projects including those funded in part by the United States
11 department of housing and urban development under the McKinney-Vento
12 homeless assistance program. The department shall determine, in
13 consultation with local governments, the data to be collected.

14 All personal information collected in the census is confidential,
15 and the department and each local government shall take all necessary
16 steps to protect the identity and confidentiality of each person
17 counted.

18 The department and each local government are prohibited from
19 disclosing any personally identifying information about any homeless
20 individual when there is reason to believe or evidence indicating that
21 the homeless individual is an adult or minor victim of domestic
22 violence, dating violence, sexual assault, or stalking or is the parent
23 or guardian of a child victim of domestic violence, dating violence,
24 sexual assault, or stalking; or revealing other confidential
25 information regarding HIV/AIDS status, as found in ((~~RCW 70.24.105~~)
26 section 6 of this act). The department and each local government shall
27 not ask any homeless housing provider to disclose personally
28 identifying information about any homeless individuals when the
29 providers implementing those programs have reason to believe or
30 evidence indicating that those clients are adult or minor victims of
31 domestic violence, dating violence, sexual assault, or stalking or are
32 the parents or guardians of child victims of domestic violence, dating
33 violence, sexual assault, or stalking. Summary data for the provider's
34 facility or program may be substituted.

35 The Washington homeless census shall be conducted annually on a
36 schedule created by the department. The department shall make summary

1 data by county available to the public each year. This data, and its
2 analysis, shall be included in the department's annual updated homeless
3 housing program strategic plan.

4 Based on the annual census and provider information from the local
5 government plans, the department shall, by the end of year four,
6 implement an online information and referral system to enable local
7 governments and providers to identify available housing for a homeless
8 person. The department shall work with local governments and their
9 providers to develop a capacity for continuous case management to
10 assist homeless persons.

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

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

15 The local health officer, acting under the direction of the local
16 board of health or under direction of the administrative officer
17 appointed under RCW 70.05.040 or 70.05.035, if any, shall:

18 (1) Enforce the public health statutes of the state, rules of the
19 state board of health and the secretary of health, and all local health
20 rules, regulations and ordinances within his or her jurisdiction
21 including imposition of penalties authorized under RCW 70.119A.030 and
22 70.118.130, the confidentiality provisions in (~~RCW 70.24.105~~) section
23 6 of this act and rules adopted to implement those provisions, and
24 filing of actions authorized by RCW 43.70.190;

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

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

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

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

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

1 (7) Collect such fees as are established by the state board of
2 health or the local board of health for the issuance or renewal of
3 licenses or permits or such other fees as may be authorized by law or
4 by the rules of the state board of health;

5 (8) Inspect, as necessary, expansion or modification of existing
6 public water systems, and the construction of new public water systems,
7 to assure that the expansion, modification, or construction conforms to
8 system design and plans;

9 (9) Take such measures as he or she deems necessary in order to
10 promote the public health, to participate in the establishment of
11 health educational or training activities, and to authorize the
12 attendance of employees of the local health department or individuals
13 engaged in community health programs related to or part of the programs
14 of the local health department.

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

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

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

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

30 (2) This section is exempt from RCW 70.24.084, 70.05.070, and
31 70.05.120.

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

34 (1) Except as provided in (~~RCW 70.24.105~~) section 6 of this act,
35 whenever a child is placed in out-of-home care by the department or a
36 supervising agency, the department or agency shall share information

1 known to the department or agency about the child and the child's
2 family with the care provider and shall consult with the care provider
3 regarding the child's case plan. If the child is dependent pursuant to
4 a proceeding under chapter 13.34 RCW, the department or supervising
5 agency shall keep the care provider informed regarding the dates and
6 location of dependency review and permanency planning hearings
7 pertaining to the child.

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

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

15 (a) Has received a medical diagnosis of fetal alcohol syndrome or
16 fetal alcohol effect;

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

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

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

23 (4) Any person who receives information about a child or a child's
24 family pursuant to this section shall keep the information confidential
25 and shall not further disclose or disseminate the information except as
26 authorized by law. Care providers shall agree in writing to keep the
27 information that they receive confidential and shall affirm that the
28 information will not be further disclosed or disseminated, except as
29 authorized by law.

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

33 (6) As used in this section:

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

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

- 3 (i) Suicide attempts or suicidal behavior or ideation;
- 4 (ii) Self-mutilation or similar self-destructive behavior;
- 5 (iii) Fire-setting or a developmentally inappropriate fascination
6 with fire;
- 7 (iv) Animal torture;
- 8 (v) Property destruction; or
- 9 (vi) Substance or alcohol abuse.

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

- 13 (i) Observed assaultive behavior;
- 14 (ii) Reported and documented history of the child willfully
15 assaulting or inflicting bodily harm; or
- 16 (iii) Attempting to assault or inflict bodily harm on other
17 children or adults under circumstances where the child has the apparent
18 ability or capability to carry out the attempted assaults including
19 threats to use a weapon.

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

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

27 (2) All out-of-home care providers licensed by the department shall
28 receive training related to blood-borne pathogens, including
29 prevention, transmission, infection control, treatment, testing, and
30 confidentiality.

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

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

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

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

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

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

13 (b) The same notice as required by (a) of this subsection shall be
14 sent to the following, if such notice has been requested in writing
15 about a specific person committed under RCW 71.05.280(3) or
16 71.05.320(3)(c) following dismissal of a sex, violent, or felony
17 harassment offense pursuant to RCW 10.77.086(4):

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

22 (ii) Any witnesses who testified against the person in any court
23 proceedings;

24 (iii) Any person specified in writing by the prosecuting attorney.
25 Information regarding victims, next of kin, or witnesses requesting the
26 notice, information regarding any other person specified in writing by
27 the prosecuting attorney to receive the notice, and the notice are
28 confidential and shall not be available to the person committed under
29 this chapter; and

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

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

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

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

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

21 (4) The superintendent shall send the notices required by this
22 chapter to the last address provided to the department by the
23 requesting party. The requesting party shall furnish the department
24 with a current address.

25 (5) For purposes of this section the following terms have the
26 following meanings:

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

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

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

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

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

35 (1)(a) When a mental health service provider conducts its initial
36 assessment for a person receiving court-ordered treatment, the service

1 provider shall inquire and shall be told by the offender whether he or
2 she is subject to supervision by the department of corrections.

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

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

25 (3) The department and the department of corrections, in
26 consultation with regional support networks, mental health service
27 providers as defined in RCW 71.05.020, mental health consumers, and
28 advocates for persons with mental illness, shall adopt rules to
29 implement the provisions of this section related to the type and scope
30 of information to be released. These rules shall:

31 (a) Enhance and facilitate the ability of the department of
32 corrections to carry out its responsibility of planning and ensuring
33 community protection with respect to persons subject to sentencing
34 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
35 disclosing information of persons who received mental health services
36 as a minor; and

37 (b) Establish requirements for the notification of persons under

1 the supervision of the department of corrections regarding the
2 provisions of this section.

3 (4) The information received by the department of corrections under
4 this section shall remain confidential and subject to the limitations
5 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW
6 72.09.585.

7 (5) No mental health service provider or individual employed by a
8 mental health service provider shall be held responsible for
9 information released to or used by the department of corrections under
10 the provisions of this section or rules adopted under this section
11 (~~except under RCW 71.05.440~~).

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

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

20 (8) The department shall, subject to available resources,
21 electronically, or by the most cost-effective means available, provide
22 the department of corrections with the names, last dates of services,
23 and addresses of specific regional support networks and mental health
24 service providers that delivered mental health services to a person
25 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
26 the departments.

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

29 (1) When the department is determining an offender's risk
30 management level, the department shall inquire of the offender and
31 shall be told whether the offender is subject to court-ordered
32 treatment for mental health services or chemical dependency services.
33 The department shall request and the offender shall provide an
34 authorization to release information form that meets applicable state
35 and federal requirements and shall provide the offender with written
36 notice that the department will request the offender's mental health
37 and substance abuse treatment information. An offender's failure to

1 inform the department of court-ordered treatment is a violation of the
2 conditions of supervision if the offender is in the community and an
3 infraction if the offender is in confinement, and the violation or
4 infraction is subject to sanctions.

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

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

29 (4) The information received by the department under RCW 71.05.445
30 or ((71.34.345)) section 9 of this act may be used to meet the
31 statutory duties of the department to provide evidence or report to the
32 court. Disclosure to the public of information provided to the court
33 by the department related to mental health services shall be limited in
34 accordance with RCW 9.94A.500 or this section.

35 (5) The information received by the department under RCW 71.05.445
36 or ((71.34.345)) section 9 of this act may be disclosed by the
37 department to other state and local agencies as relevant to plan for
38 and provide offenders transition, treatment, and supervision services,

1 or as relevant and necessary to protect the public and counteract the
2 danger created by a particular offender, and in a manner consistent
3 with the written policy established by the secretary. The decision to
4 disclose or not shall not result in civil liability for the department
5 or its employees so long as the decision was reached in good faith and
6 without gross negligence. The information received by a state or local
7 agency from the department shall remain confidential and subject to the
8 limitations on disclosure set forth in chapters 70.02, 71.05, and 71.34
9 RCW and, subject to these limitations, may be released only as relevant
10 and necessary to counteract the danger created by a particular
11 offender.

12 (6) The information received by the department under RCW 71.05.445
13 or (~~71.34.345~~) section 9 of this act may be disclosed by the
14 department to individuals only with respect to offenders who have been
15 determined by the department to have a high risk of reoffending by a
16 risk assessment, as defined in RCW 9.94A.030, only as relevant and
17 necessary for those individuals to take reasonable steps for the
18 purpose of self-protection, or as provided in RCW 72.09.370(2). The
19 information may not be disclosed for the purpose of engaging the public
20 in a system of supervision, monitoring, and reporting offender behavior
21 to the department. The department must limit the disclosure of
22 information related to mental health services to the public to
23 descriptions of an offender's behavior, risk he or she may present to
24 the community, and need for mental health treatment, including
25 medications, and shall not disclose or release to the public copies of
26 treatment documents or records, except as otherwise provided by law.
27 All disclosure of information to the public must be done in a manner
28 consistent with the written policy established by the secretary. The
29 decision to disclose or not shall not result in civil liability for the
30 department or its employees so long as the decision was reached in good
31 faith and without gross negligence. Nothing in this subsection
32 prevents any person from reporting to law enforcement or the department
33 behavior that he or she believes creates a public safety risk.

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

36 (1) Before imposing a sentence upon a defendant, the court shall
37 conduct a sentencing hearing. The sentencing hearing shall be held

1 within forty court days following conviction. Upon the motion of
2 either party for good cause shown, or on its own motion, the court may
3 extend the time period for conducting the sentencing hearing.

4 Except in cases where the defendant shall be sentenced to a term of
5 total confinement for life without the possibility of release or, when
6 authorized by RCW 10.95.030 for the crime of aggravated murder in the
7 first degree, sentenced to death, the court may order the department to
8 complete a risk assessment report. If available before sentencing, the
9 report shall be provided to the court.

10 Unless specifically waived by the court, the court shall order the
11 department to complete a chemical dependency screening report before
12 imposing a sentence upon a defendant who has been convicted of a
13 violation of the uniform controlled substances act under chapter 69.50
14 RCW, a criminal solicitation to commit such a violation under chapter
15 9A.28 RCW, or any felony where the court finds that the offender has a
16 chemical dependency that has contributed to his or her offense. In
17 addition, the court shall, at the time of plea or conviction, order the
18 department to complete a presentence report before imposing a sentence
19 upon a defendant who has been convicted of a felony sexual offense.
20 The department of corrections shall give priority to presentence
21 investigations for sexual offenders. If the court determines that the
22 defendant may be a mentally ill person as defined in RCW 71.24.025,
23 although the defendant has not established that at the time of the
24 crime he or she lacked the capacity to commit the crime, was
25 incompetent to commit the crime, or was insane at the time of the
26 crime, the court shall order the department to complete a presentence
27 report before imposing a sentence.

28 The court shall consider the risk assessment report and presentence
29 reports, if any, including any victim impact statement and criminal
30 history, and allow arguments from the prosecutor, the defense counsel,
31 the offender, the victim, the survivor of the victim, or a
32 representative of the victim or survivor, and an investigative law
33 enforcement officer as to the sentence to be imposed.

34 A criminal history summary relating to the defendant from the
35 prosecuting authority or from a state, federal, or foreign governmental
36 agency shall be prima facie evidence of the existence and validity of
37 the convictions listed therein. If the court is satisfied by a
38 preponderance of the evidence that the defendant has a criminal

1 history, the court shall specify the convictions it has found to exist.
2 All of this information shall be part of the record. Copies of all
3 risk assessment reports and presentence reports presented to the
4 sentencing court and all written findings of facts and conclusions of
5 law as to sentencing entered by the court shall be sent to the
6 department by the clerk of the court at the conclusion of the
7 sentencing and shall accompany the offender if the offender is
8 committed to the custody of the department. Court clerks shall
9 provide, without charge, certified copies of documents relating to
10 criminal convictions requested by prosecuting attorneys.

11 (2) To prevent wrongful disclosure of information and records
12 related to mental health services, as ~~((defined))~~ described in RCW
13 71.05.445 and ~~((71.34.345))~~ section 9 of this act, a court may take
14 only those steps necessary during a sentencing hearing or any hearing
15 in which the department presents information related to mental health
16 services to the court. The steps may be taken on motion of the
17 defendant, the prosecuting attorney, or on the court's own motion. The
18 court may seal the portion of the record relating to information
19 relating to mental health services, exclude the public from the hearing
20 during presentation or discussion of information and records relating
21 to mental health services, or grant other relief to achieve the result
22 intended by this subsection, but nothing in this subsection shall be
23 construed to prevent the subsequent release of information and records
24 related to mental health services as authorized by RCW 71.05.445,
25 ~~((71.34.345))~~ section 9 of this act, or 72.09.585. Any person who
26 otherwise is permitted to attend any hearing pursuant to chapter 7.69
27 or 7.69A RCW shall not be excluded from the hearing solely because the
28 department intends to disclose or discloses information related to
29 mental health services.

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

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

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

- 1 (3) RCW 71.05.640 (Treatment records--Access procedures) and 2005
2 c 504 s 712, 2005 c 504 s 113, 2000 c 94 s 11, & 1999 c 13 s 9;
- 3 (4) RCW 71.05.385 (Information subject to disclosure to authorized
4 persons--Restrictions) and 2011 1st sp.s. c 40 s 23 & 2009 c 320 s 2;
- 5 (5) RCW 71.05.420 (Records of disclosure) and 2009 c 217 s 7, 2005
6 c 504 s 110, 1990 c 3 s 113, & 1973 1st ex.s. c 142 s 47;
- 7 (6) RCW 71.05.440 (Action for unauthorized release of confidential
8 information--Liquidated damages--Treble damages--Injunction) and 1990
9 c 3 s 114, 1974 ex.s. c 145 s 28, & 1973 1st ex.s. c 142 s 49;
- 10 (7) RCW 71.05.427 (Persons committed following dismissal of sex
11 offense--Release of information authorized) and 1990 c 3 s 110;
- 12 (8) RCW 71.05.630 (Treatment records--Confidential--Release) and
13 2009 c 398 s 1, 2009 c 320 s 5, 2009 c 217 s 8, 2007 c 191 s 1, 2005 c
14 504 s 112, 2000 c 75 s 5, & 1989 c 205 s 13;
- 15 (9) RCW 71.05.690 (Treatment records--Rules) and 2005 c 504 s 714
16 & 1999 c 13 s 12;
- 17 (10) RCW 71.34.340 (Information concerning treatment of minors
18 confidential--Disclosure--Admissible as evidence with written consent)
19 and 2011 c 305 s 9, 2005 c 453 s 6, 2000 c 75 s 7, & 1985 c 354 s 18;
- 20 (11) RCW 71.34.345 (Mental health services information--Release to
21 department of corrections--Rules) and 2004 c 166 s 8, 2002 c 39 s 1, &
22 2000 c 75 s 2; and
- 23 (12) RCW 71.34.350 (Disclosure of information or records--Required
24 entries in minor's clinical record) and 1985 c 354 s 22.

25 NEW SECTION. **Sec. 36.** This act takes effect July 1, 2014.

--- END ---