

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2416

Chapter 81, Laws of 2020

66th Legislature
2020 Regular Session

FORENSIC MENTAL HEALTH SERVICES--DISCLOSURE OF INFORMATION AND
RECORDS

EFFECTIVE DATE: June 11, 2020

Passed by the House February 18, 2020
Yeas 97 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 3, 2020
Yeas 49 Nays 0

CYRUS HABIB

President of the Senate

Approved March 19, 2020 2:35 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2416** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 19, 2020

**Secretary of State
State of Washington**

HOUSE BILL 2416

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

2020 Regular Session

By Representatives Kilduff, Chopp, Leavitt, Macri, Cody, Stonier, Ormsby, and Pollet

Read first time 01/14/20. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to disclosures of information and records related
2 to forensic mental health services; and amending RCW 10.77.210 and
3 70.02.205.

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

5 **Sec. 1.** RCW 10.77.210 and 1998 c 297 s 45 are each amended to
6 read as follows:

7 (1) Any person involuntarily detained, hospitalized, or committed
8 pursuant to the provisions of this chapter shall have the right to
9 adequate care and individualized treatment. The person who has
10 custody of the patient or is in charge of treatment shall keep
11 records detailing all medical, expert, and professional care and
12 treatment received by a committed person, and shall keep copies of
13 all reports of periodic examinations of the patient that have been
14 filed with the secretary pursuant to this chapter. Except as provided
15 in RCW 10.77.205 and 4.24.550 regarding the release of information
16 concerning insane offenders who are acquitted of sex offenses and
17 subsequently committed pursuant to this chapter, and disclosures of
18 health care information as authorized under chapter 70.02 RCW, all
19 records and reports made pursuant to this chapter, shall be made
20 available only upon request, to the committed person, to his or her
21 attorney, to his or her personal physician, to the supervising

1 community corrections officer, to the prosecuting attorney, to the
2 court, to the protection and advocacy agency, or other expert or
3 professional persons who, upon proper showing, demonstrates a need
4 for access to such records. All records and reports made pursuant to
5 this chapter shall also be made available, upon request, to the
6 department of corrections or the indeterminate sentence review board
7 if the person was on parole, probation, or community supervision at
8 the time of detention, hospitalization, or commitment or the person
9 is subsequently convicted for the crime for which he or she was
10 detained, hospitalized, or committed pursuant to this chapter.

11 (2) All relevant records and reports as defined by the department
12 in rule shall be made available, upon request, to criminal justice
13 agencies as defined in RCW 10.97.030.

14 **Sec. 2.** RCW 70.02.205 and 2017 c 298 s 1 are each amended to
15 read as follows:

16 (1) (a) A health care provider or health care facility may use or
17 disclose the health care information of a patient without obtaining
18 an authorization from the patient or the patient's personal
19 representative if the conditions in (b) of this subsection are met
20 and:

21 (i) The disclosure is to a family member, including a patient's
22 state registered domestic partner, other relative, a close personal
23 friend, or other person identified by the patient, and the health
24 care information is directly relevant to the person's involvement
25 with the patient's health care or payment related to the patient's
26 health care; or

27 (ii) The use or disclosure is for the purpose of notifying, or
28 assisting in the notification of, including identifying or locating,
29 a family member, a personal representative of the patient, or another
30 person responsible for the care of the patient of the patient's
31 location, general condition, or death.

32 (b) A health care provider or health care facility may make the
33 uses and disclosures described in (a) of this subsection if:

34 (i) The patient is not present or obtaining the patient's
35 authorization or providing the opportunity to agree or object to the
36 use or disclosure is not practicable due to the patient's incapacity
37 or an emergency circumstance, the health care provider or health care
38 facility may in the exercise of professional judgment, determine
39 whether the use or disclosure is in the best interests of the patient

1 and, if so, disclose only the health care information that is
2 directly relevant to the person's involvement with the patient's
3 health care or payment related to the patient's health care; or

4 (ii) The patient is present for, or otherwise available prior to,
5 the use or disclosure and has the capacity to make health care
6 decisions, the health care provider or health care facility may use
7 or disclose the information if it:

8 (A) Obtains the patient's agreement;

9 (B) Provides the patient with the opportunity to object to the
10 use or disclosure, and the patient does not express an objection; or

11 (C) Reasonably infers from the circumstances, based on the
12 exercise of professional judgment, that the patient does not object
13 to the use or disclosure.

14 (2) With respect to information and records related to mental
15 health services provided to a patient by a health care provider, the
16 health care information disclosed under this section may include, to
17 the extent consistent with the health care provider's professional
18 judgment and standards of ethical conduct:

19 (a) The patient's diagnoses and the treatment recommendations;

20 (b) Issues concerning the safety of the patient, including risk
21 factors for suicide, steps that can be taken to make the patient's
22 home safer, and a safety plan to monitor and support the patient;

23 (c) Information about resources that are available in the
24 community to help the patient, such as case management and support
25 groups; and

26 (d) The process to ensure that the patient safely transitions to
27 a higher or lower level of care, including an interim safety plan.

28 (3) Any use or disclosure of health care information, including
29 information and records related to mental health services, under this
30 section must be limited to the minimum necessary to accomplish the
31 purpose of the use or disclosure.

32 (4) A health care provider or health care facility is not subject
33 to any civil liability for making or not making a use or disclosure
34 in accordance with this section.

Passed by the House February 18, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

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