



Table of Contents	
State Law On Breach	2
Identity Theft	4
Medical Records Release Laws	5
Minors Release Laws	21
Communicable Diseases	22
Mental Health Records	31
Medical Record Copying Fees	40
References and Resources	40

Total Medical Compliance has created state-specific guidelines as a resource for our clients. This information is not intended as legal advice and may not cover all areas of compliance. TMC encourages clients to research and consult with your state agencies to remain up-to-date on any changes.

STATE LAW ON BREACH**RCW 19.255.010- Disclosure, notice—Definitions—Rights, remedies.**

(1) Any person or business that conducts business in this state and that owns or licenses data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the personal information was not secured. Notice is not required if the breach of the security of the system is not reasonably likely to subject consumers to a risk of harm. The breach of secured personal information must be disclosed if the information acquired and accessed is not secured during a security breach or if the confidential process, encryption key, or other means to decipher the secured information was acquired by an unauthorized person.

(2) Any person or business that maintains data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if the data owner or licensee contacts a law enforcement agency after discovery of a breach of the security of the system and a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(5) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements:

- (a) Social security number;
- (b) Driver's license number or Washington identification card number; or
- (c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(6) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(7) For purposes of this section, "secured" means encrypted in a manner that meets or exceeds the national institute of standards and technology (NIST) standard or is otherwise modified so that the personal information is rendered unreadable, unusable, or undecipherable by an unauthorized person.

(8) For purposes of this section and except under subsections (9) and (10) of this section, "notice" may be provided by one of the following methods:

- (a) Written notice;
- (b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; or
- (c) Substitute notice, if the person or business demonstrates that the cost of providing notice would

exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

- (i) Email notice when the person or business has an email address for the subject persons;
- (ii) Conspicuous posting of the notice on the web site page of the person or business, if the person or business maintains one; and
- (iii) Notification to major statewide media.

(9) A person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(10) A covered entity under the federal health insurance portability and accountability act of 1996, 42 U.S.C. Sec. 1320d et seq., is deemed to have complied with the requirements of this section with respect to protected health information if it has complied with section 13402 of the federal health information technology for economic and clinical health act, Public Law 111-5 as it existed on July 24, 2015. Covered entities shall notify the attorney general pursuant to subsection (15) of this section in compliance with the timeliness of notification requirements of section 13402 of the federal health information technology for economic and clinical health act, Public Law 111-5 as it existed on July 24, 2015, notwithstanding the notification requirement in subsection (16) of this section.

(11) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

(12)(a) Any consumer injured by a violation of this section may institute a civil action to recover damages.

(b) Any person or business that violates, proposes to violate, or has violated this section may be enjoined.

(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

(13) Any person or business that is required to issue notification pursuant to this section shall meet all of the following requirements:

(a) The notification must be written in plain language; and

(b) The notification must include, at a minimum, the following information:

- (i) The name and contact information of the reporting person or business subject to this section;
- (ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach; and
- (iii) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed personal information.

(14) Any person or business that is required to issue a notification pursuant to this section to more than five hundred Washington residents as a result of a single breach shall, by the time notice is provided to affected consumers, electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the attorney general. The person or business shall also provide to the attorney general the number of Washington consumers affected by the breach, or an estimate if the exact number is not known.

(15) Notification to affected consumers and to the attorney general under this section must be made in the most expedient time possible and without unreasonable delay, no more than forty-five

calendar days after the breach was discovered, unless at the request of law enforcement as provided in subsection (3) of this section, or due to any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(16) The attorney general may bring an action in the name of the state, or as *parens patriae* on behalf of persons residing in the state, to enforce this section. For actions brought by the attorney general to enforce this section, the legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter **19.86** RCW. For actions brought by the attorney general to enforce this section, a violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for purposes of applying the consumer protection act, chapter **19.86** RCW. An action to enforce this section may not be brought under RCW **19.86.090**. [**2015 c 64 § 2**; **2005 c 368 § 2**.]

IDENTITY THEFT

9.35.020- Identity theft.

(1) No person may knowingly obtain, possess, use, or transfer a means of identification or financial information of another person, living or dead, with the intent to commit, or to aid or abet, any crime.

(2) Violation of this section when the accused or an accomplice violates subsection (1) of this section and obtains credit, money, goods, services, or anything else of value in excess of one thousand five hundred dollars in value, or when the accused knowingly targets a senior or vulnerable individual in carrying out a violation of subsection (1) of this section, shall constitute identity theft in the first degree. Identity theft in the first degree is a class B felony punishable according to chapter **9A.20** RCW.

(3) A person is guilty of identity theft in the second degree when he or she violates subsection (1) of this section under circumstances not amounting to identity theft in the first degree. Identity theft in the second degree is a class C felony punishable according to chapter **9A.20** RCW.

(4) Each crime prosecuted under this section shall be punished separately under chapter **9.94A** RCW, unless it is the same criminal conduct as any other crime, under RCW **9.94A.589**.

(5) Whenever any series of transactions involving a single person's means of identification or financial information which constitute identity theft would, when considered separately, constitute identity theft in the second degree because of value, and the series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining the degree of identity theft involved.

(6) Every person who, in the commission of identity theft, shall commit any other crime may be punished therefor as well as for the identity theft, and may be prosecuted for each crime separately.

(7) A person who violates this section is liable for civil damages of one thousand dollars or actual damages, whichever is greater, including costs to repair the victim's credit record, and reasonable attorneys' fees as determined by the court.

(8) In a proceeding under this section, the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality.

(9) The provisions of this section do not apply to any person who obtains another person's driver's

license or other form of identification for the sole purpose of misrepresenting his or her age.

(10) In a proceeding under this section in which a person's means of identification or financial information was used without that person's authorization, and when there has been a conviction, the sentencing court may issue such orders as are necessary to correct a public record that contains false information resulting from a violation of this section.

[2017 c 4 § 5 (Initiative Measure No. 1501, approved November 8, 2016); **2008 c 207 § 4**; **2004 c 273 § 2**; **2003 c 53 § 22**; **2001 c 217 § 9**; **1999 c 368 § 3**.]

MEDICAL RECORDS RELEASE

70.02.005- Findings.

The legislature finds that:

(1) Health care information is personal and sensitive information that if improperly used or released may do significant harm to a patient's interests in privacy, health care, or other interests.

(2) Patients need access to their own health care information as a matter of fairness to enable them to make informed decisions about their health care and correct inaccurate or incomplete information about themselves.

(3) In order to retain the full trust and confidence of patients, health care providers have an interest in assuring that health care information is not improperly disclosed and in having clear and certain rules for the disclosure of health care information.

(4) Persons other than health care providers obtain, use, and disclose health record information in many different contexts and for many different purposes. It is the public policy of this state that a patient's interest in the proper use and disclosure of the patient's health care information survives even when the information is held by persons other than health care providers.

(5) The movement of patients and their health care information across state lines, access to and exchange of health care information from automated data banks, and the emergence of multistate health care providers creates a compelling need for uniform law, rules, and procedures governing the use and disclosure of health care information.

[**1991 c 335 § 101**.]

RCW (Revised Code of Washington) 70.02.010- Definitions. (Effective April 1, 2018.)

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

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

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

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

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

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

(3) "Commitment" has the same meaning as in RCW **71.05.020**.

(4) "Custody" has the same meaning as in RCW **71.05.020**.

(5) "De-identified" means health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

(6) "Department" means the department of social and health services.

(7) "Designated crisis responder" has the same meaning as in RCW **71.05.020** or **71.34.020**, as applicable.

- (8) "Detention" or "detain" has the same meaning as in RCW **71.05.020**.
- (9) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, location within a health care facility, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.
- (10) "Discharge" has the same meaning as in RCW **71.05.020**.
- (11) "Evaluation and treatment facility" has the same meaning as in RCW **71.05.020** or **71.34.020**, as applicable.
- (12) "Federal, state, or local law enforcement authorities" means an officer of any agency or authority in the United States, a state, a tribe, a territory, or a political subdivision of a state, a tribe, or a territory who is empowered by law to: (a) Investigate or conduct an official inquiry into a potential criminal violation of law; or (b) prosecute or otherwise conduct a criminal proceeding arising from an alleged violation of law.
- (13) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.
- (14) "Health care" means any care, service, or procedure provided by a health care provider:
- (a) To diagnose, treat, or maintain a patient's physical or mental condition; or
 - (b) That affects the structure or any function of the human body.
- (15) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.
- (16) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any required accounting of disclosures of health care information.
- (17) "Health care operations" means any of the following activities of a health care provider, health care facility, or third-party payor to the extent that the activities are related to functions that make an entity a health care provider, a health care facility, or a third-party payor:
- (a) Conducting: Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, if the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
 - (b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance and third-party payor performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of nonhealth care professionals, accreditation, certification, licensing, or credentialing activities;
 - (c) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care, including stop-loss insurance and excess of loss insurance, if any applicable legal requirements are met;
 - (d) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
 - (e) Business planning and development, such as conducting cost-management and planning-related

analyses related to managing and operating the health care facility or third-party payor, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and

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

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

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

(iii) Resolution of internal grievances;

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

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

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

(19) "Human immunodeficiency virus" or "HIV" has the same meaning as in RCW **70.24.017**.

(20) "Imminent" has the same meaning as in RCW **71.05.020**.

(21) "Information and records related to mental health services" means a type of health care information that relates to all information and records compiled, obtained, or maintained in the course of providing services by a mental health service agency or mental health professional to persons who are receiving or have received services for mental illness. The term includes mental health information contained in a medical bill, registration records, as defined in RCW **71.05.020**, and all other records regarding the person maintained by the department, by regional support networks and their staff, and by treatment facilities. The term further includes documents of legal proceedings under chapter **71.05**, **71.34**, or **10.77** RCW, or somatic health care information. For health care information maintained by a hospital as defined in RCW **70.41.020** or a health care facility or health care provider that participates with a hospital in an organized health care arrangement defined under federal law, "information and records related to mental health services" is limited to information and records of services provided by a mental health professional or information and records of services created by a hospital-operated behavioral health program as defined in RCW **71.24.025**. The term does not include psychotherapy notes.

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

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

(24) "Legal counsel" has the same meaning as in RCW **71.05.020**.

(25) "Local public health officer" has the same meaning as in RCW **70.24.017**.

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

(27) "Mental health professional" means a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary of social and health services under chapter **71.05** RCW, whether that person works in a private or public setting.

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

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

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

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

(32) "Payment" means:

(a) The activities undertaken by:

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

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

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

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

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

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

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

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

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

(A) Name and address;

(B) Date of birth;

(C) Social security number;

(D) Payment history;

(E) Account number; and

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

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

(34) "Professional person" has the same meaning as in RCW **71.05.020**.

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

(36) "Psychotherapy notes" means notes recorded, in any medium, by a mental health professional documenting or analyzing the contents of conversations during a private counseling session or group, joint, or family counseling session, and that are separated from the rest of the individual's medical record. The term excludes mediation prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: Diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

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

(38) "Release" has the same meaning as in RCW **71.05.020**.

(39) "Resource management services" has the same meaning as in RCW **71.05.020**.

(40) "Serious violent offense" has the same meaning as in RCW **71.05.020**.

(41) "Sexually transmitted infection" or "sexually transmitted disease" has the same meaning as "sexually transmitted disease" in RCW **70.24.017**.

(42) "Test for a sexually transmitted disease" has the same meaning as in RCW **70.24.017**.

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

(44) "Treatment" means the provision, coordination, or management of health care and related services by one or more health care providers or health care facilities, including the coordination or management of health care by a health care provider or health care facility with a third party; consultation between health care providers or health care facilities relating to a patient; or the referral of a patient for health care from one health care provider or health care facility to another. [**2016 sp.s. c 29 § 416**. Prior: **2014 c 225 § 70**; **2014 c 220 § 4**; **2013 c 200 § 1**; **2006 c 235 § 2**; **2005 c 468 § 1**; **2002 c 318 § 1**; **1993 c 448 § 1**; **1991 c 335 § 102**.]

RCW 70.02.020- Disclosure by health care provider.

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

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

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

- (d) Pursuant to an authorization where the patient authorized the disclosure of health care information about himself or herself;
- (e) Of directory information;
- (f) To persons involved in the patient's care;
- (g) For national security or intelligence purposes if an accounting of disclosures is not permitted by law;
- (h) To correctional institutions or law enforcement officials if an accounting of disclosures is not permitted by law; and
- (i) Of a limited data set that excludes direct identifiers of the patient or of relatives, employers, or household members of the patient.

[**2014 c 220 § 5; 2013 c 200 § 2; 2005 c 468 § 2; 1993 c 448 § 2; 1991 c 335 § 201.**]

RCW 70.02.030- Patient authorization of disclosure.

- (1) A patient may authorize a health care provider or health care facility to disclose the patient's health care information. A health care provider or health care facility shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider or health care facility denies the patient access to health care information under **RCW 70.02.090**.
- (2) A health care provider or health care facility may charge a reasonable fee for providing the health care information and is not required to honor an authorization until the fee is paid.
- (3) To be valid, a disclosure authorization to a health care provider or health care facility shall:
 - (a) Be in writing, dated, and signed by the patient;
 - (b) Identify the nature of the information to be disclosed;
 - (c) Identify the name and institutional affiliation of the person or class of persons to whom the information is to be disclosed;
 - (d) Identify the provider or class of providers who are to make the disclosure;
 - (e) Identify the patient; and
 - (f) Contain an expiration date or an expiration event that relates to the patient or the purpose of the use or disclosure.
- (4) Unless disclosure without authorization is otherwise permitted under **RCW 70.02.050** or the federal health insurance portability and accountability act of 1996 and its implementing regulations, an authorization may permit the disclosure of health care information to a class of persons that includes:
 - (a) Researchers if the health care provider or health care facility obtains the informed consent for the use of the patient's health care information for research purposes; or
 - (b) Third-party payors if the information is only disclosed for payment purposes.
- (5) Except as provided by this chapter, the signing of an authorization by a patient is not a waiver of any rights a patient has under other statutes, the rules of evidence, or common law.
- (6) When an authorization permits the disclosure of health care information to a financial institution or an employer of the patient for purposes other than payment, the authorization as it pertains to those disclosures shall expire one year after the signing of the authorization, unless the authorization is renewed by the patient.
- (7) A health care provider or health care facility shall retain the original or a copy of each authorization or revocation in conjunction with any health care information from which disclosures are made.
- (8) Where the patient is under the supervision of the department of corrections, an authorization signed pursuant to this section for health care information related to mental health or drug or

alcohol treatment expires at the end of the term of supervision, unless the patient is part of a treatment program that requires the continued exchange of information until the end of the period of treatment.

[2014 c 220 § 15; 2005 c 468 § 3; 2004 c 166 § 19; 1994 sp.s. c 9 § 741; 1993 c 448 § 3; 1991 c 335 § 202.]

RCW 70.02.040- Patient's revocation of authorization for disclosure.

A patient may revoke in writing a disclosure authorization to a health care provider at any time unless disclosure is required to effectuate payments for health care that has been provided or other substantial action has been taken in reliance on the authorization. A patient may not maintain an action against the health care provider for disclosures made in good-faith reliance on an authorization if the health care provider had no actual notice of the revocation of the authorization.

RCW 70.02.050- Disclosure without patient's authorization—Need-to-know basis.

(1) A health care provider or health care facility may disclose health care information, except for information and records related to sexually transmitted diseases which are addressed in RCW 70.02.220, about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is:

- (a) To a person who the provider or facility reasonably believes is providing health care to the patient;
- (b) To any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, actuarial services to, or other health care operations for or on behalf of the health care provider or health care facility; or for assisting the health care provider or health care facility in the delivery of health care and the health care provider or health care facility reasonably believes that the person:
 - (i) Will not use or disclose the health care information for any other purpose; and
 - (ii) Will take appropriate steps to protect the health care information;
- (c) To any person if the health care provider or health care facility reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this chapter on the part of the provider or facility to so disclose. The fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies is not subject to disclosure unless disclosure is permitted in RCW 70.02.230; or
- (d) For payment, including information necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(2) A health care provider shall disclose health care information, except for information and records related to sexually transmitted diseases, unless otherwise authorized in RCW 70.02.220, about a patient without the patient's authorization if the disclosure is:

- (a) To federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal licensure, certification or registration rules or laws, or to investigate unprofessional conduct or ability to practice with reasonable skill and safety under chapter 18.130 RCW. Any health care information obtained under this subsection is exempt from public inspection and copying pursuant to chapter 42.56 RCW; or
- (b) When needed to protect the public health. [2014 c 220 § 6; 2013 c 200 § 3; 2007 c 156 § 12; 2006 c 235 § 3; 2005 c 468 § 4; 1998 c 158 § 1; 1993 c 448 § 4; 1991 c 335 § 204.]

RCW 70.02.060- Discovery request or compulsory process.

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

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

(3) Production of health care information under this section, in and of itself, does not constitute a waiver of any privilege, objection, or defense existing under other law or rule of evidence or procedure. [1991 c 335 § 205.]

RCW 70.02.070- Certification of record.

Upon the request of the person requesting the record, the health care provider or facility shall certify the record furnished and may charge for such certification in accordance with RCW 36.18.016(5). No record need be certified until the fee is paid. The certification shall be affixed to the record and disclose:

- (1) The identity of the patient;
- (2) The kind of health care information involved;
- (3) The identity of the person to whom the information is being furnished;
- (4) The identity of the health care provider or facility furnishing the information;
- (5) The number of pages of the health care information;
- (6) The date on which the health care information is furnished; and
- (7) That the certification is to fulfill and meet the requirements of this section.

[1995 c 292 § 20; 1991 c 335 § 206.]

RCW 70.02.080- Patient's examination and copying—Requirements.

(1) Upon receipt of a written request from a patient to examine or copy all or part of the patient's recorded health care information, a health care provider, as promptly as required under the circumstances, but no later than fifteen working days after receiving the request shall:

- (a) Make the information available for examination during regular business hours and provide a copy, if requested, to the patient;
- (b) Inform the patient if the information does not exist or cannot be found;
- (c) If the health care provider does not maintain a record of the information, inform the patient and provide the name and address, if known, of the health care provider who maintains the record;
- (d) If the information is in use or unusual circumstances have delayed handling the request, inform the patient and specify in writing the reasons for the delay and the earliest date, not later than twenty-one working days after receiving the request, when the information will be available for examination or copying or when the request will be otherwise disposed of; or

- (e) Deny the request, in whole or in part, under RCW **70.02.090** and inform the patient.
- (2) Upon request, the health care provider shall provide an explanation of any code or abbreviation used in the health care information. If a record of the particular health care information requested is not maintained by the health care provider in the requested form, the health care provider is not required to create a new record or reformulate an existing record to make the health care information available in the requested form. The health care provider may charge a reasonable fee for providing the health care information and is not required to permit examination or copying until the fee is paid.

[**1993 c 448 § 5; 1991 c 335 § 301.**]

RCW 70.02.090- Patient's request—Denial of examination and copying.

- (1) Subject to any conflicting requirement in the public records act, chapter **42.56** RCW, a health care provider may deny access to health care information by a patient if the health care provider reasonably concludes that:
- (a) Knowledge of the health care information would be injurious to the health of the patient;
 - (b) Knowledge of the health care information could reasonably be expected to lead to the patient's identification of an individual who provided the information in confidence and under circumstances in which confidentiality was appropriate;
 - (c) Knowledge of the health care information could reasonably be expected to cause danger to the life or safety of any individual;
 - (d) The health care information was compiled and is used solely for litigation, quality assurance, peer review, or administrative purposes; or
 - (e) Access to the health care information is otherwise prohibited by law.
- (2) If a health care provider denies a request for examination and copying under this section, the provider, to the extent possible, shall segregate health care information for which access has been denied under subsection (1) of this section from information for which access cannot be denied and permit the patient to examine or copy the disclosable information.
- (3) If a health care provider denies a patient's request for examination and copying, in whole or in part, under subsection (1)(a) or (c) of this section, the provider shall permit examination and copying of the record by another health care provider, selected by the patient, who is licensed, certified, registered, or otherwise authorized under the laws of this state to treat the patient for the same condition as the health care provider denying the request. The health care provider denying the request shall inform the patient of the patient's right to select another health care provider under this subsection. The patient shall be responsible for arranging for compensation of the other health care provider so selected.

[**2005 c 274 § 331; 1991 c 335 § 302.**]

RCW 70.02.100- Correction or amendment of record.

- (1) For purposes of accuracy or completeness, a patient may request in writing that a health care provider correct or amend its record of the patient's health care information to which a patient has access under RCW **70.02.080**.
- (2) As promptly as required under the circumstances, but no later than ten days after receiving a request from a patient to correct or amend its record of the patient's health care information, the health care provider shall:
- (a) Make the requested correction or amendment and inform the patient of the action;
 - (b) Inform the patient if the record no longer exists or cannot be found;
 - (c) If the health care provider does not maintain the record, inform the patient and provide the patient with the name and address, if known, of the person who maintains the record;

(d) If the record is in use or unusual circumstances have delayed the handling of the correction or amendment request, inform the patient and specify in writing, the earliest date, not later than twenty-one days after receiving the request, when the correction or amendment will be made or when the request will otherwise be disposed of; or

(e) Inform the patient in writing of the provider's refusal to correct or amend the record as requested and the patient's right to add a statement of disagreement.

[1991 c 335 § 401.]

RCW 70.02.110- Correction or amendment or statement of disagreement—Procedure.

(1) In making a correction or amendment, the health care provider shall:

(a) Add the amending information as a part of the health record; and

(b) Mark the challenged entries as corrected or amended entries and indicate the place in the record where the corrected or amended information is located, in a manner practicable under the circumstances.

(2) If the health care provider maintaining the record of the patient's health care information refuses to make the patient's proposed correction or amendment, the provider shall:

(a) Permit the patient to file as a part of the record of the patient's health care information a concise statement of the correction or amendment requested and the reasons therefor; and

(b) Mark the challenged entry to indicate that the patient claims the entry is inaccurate or incomplete and indicate the place in the record where the statement of disagreement is located, in a manner practicable under the circumstances.

(3) A health care provider who receives a request from a patient to amend or correct the patient's health care information, as provided in RCW 70.02.100, shall forward any changes made in the patient's health care information or health record, including any statement of disagreement, to any third-party payor or insurer to which the health care provider has disclosed the health care information that is the subject of the request.

[2000 c 5 § 3; 1991 c 335 § 402.]

RCW 70.02.120- Notice of information practices—Display conspicuously.

(1) A health care provider who provides health care at a health care facility that the provider operates and who maintains a record of a patient's health care information shall create a "notice of information practices" that contains substantially the following:

NOTICE

"We keep a record of the health care services we provide you. You may ask us to see and copy that record. You may also ask us to correct that record. We will not disclose your record to others unless you direct us to do so or unless the law authorizes or compels us to do so. You may see your record or get more information about it at"

(2) The health care provider shall place a copy of the notice of information practices in a conspicuous place in the health care facility, on a consent form or with a billing or other notice provided to the patient.

[1991 c 335 § 501.]

RCW 70.02.130- Consent by others—Health care representatives.

(1) A person authorized to consent to health care for another may exercise the rights of that person under this chapter to the extent necessary to effectuate the terms or purposes of the grant of authority. If the patient is a minor and is authorized to consent to health care without parental consent under federal and state law, only the minor may exercise the rights of a patient under this chapter as to information pertaining to health care to which the minor lawfully consented. In cases where parental consent is required, a health care provider may rely, without incurring any civil or

criminal liability for such reliance, on the representation of a parent that he or she is authorized to consent to health care for the minor patient regardless of whether:

- (a) The parents are married, unmarried, or separated at the time of the representation;
- (b) The consenting parent is, or is not, a custodial parent of the minor;
- (c) The giving of consent by a parent is, or is not, full performance of any agreement between the parents, or of any order or decree in any action entered pursuant to chapter **26.09** RCW.

(2) A person authorized to act for a patient shall act in good faith to represent the best interests of the patient.

[**1991 c 335 § 601.**]

RCW 70.02.140- Representative of deceased patient.

A personal representative of a deceased patient may exercise all of the deceased patient's rights under this chapter. If there is no personal representative, or upon discharge of the personal representative, a deceased patient's rights under this chapter may be exercised by persons who would have been authorized to make health care decisions for the deceased patient when the patient was living under RCW **7.70.065**.

[**1991 c 335 § 602.**]

RCW 70.02.150- Security safeguards.

A health care provider shall effect reasonable safeguards for the security of all health care information it maintains.

Reasonable safeguards shall include affirmative action to delete outdated and incorrect facsimile transmission or other telephone transmittal numbers from computer, facsimile, or other databases. When health care information is transmitted electronically to a recipient who is not regularly transmitted health care information from the health care provider, the health care provider shall verify that the number is accurate prior to transmission.

[**2001 c 16 § 2; 1991 c 335 § 701.**]

RCW 70.02.160- Retention of record.

A health care provider shall maintain a record of existing health care information for at least one year following receipt of an authorization to disclose that health care information under RCW **70.02.040**, and during the pendency of a request for examination and copying under RCW **70.02.080** or a request for correction or amendment under RCW **70.02.100**.

[**1991 c 335 § 702.**]

RCW 70.02.170- Civil remedies.

(1) A person who has complied with this chapter may maintain an action for the relief provided in this section against a health care provider or facility who has not complied with this chapter.

(2) The court may order the health care provider or other person to comply with this chapter. Such relief may include actual damages, but shall not include consequential or incidental damages. The court shall award reasonable attorneys' fees and all other expenses reasonably incurred to the prevailing party.

(3) Any action under this chapter is barred unless the action is commenced within two years after the cause of action is discovered.

(4) A violation of this chapter shall not be deemed a violation of the consumer protection act, chapter **19.86** RCW.

[**1991 c 335 § 801.**]

RCW 70.02.200- Disclosure without patient's authorization—Permitted and mandatory disclosures.

(1) In addition to the disclosures authorized by RCW **70.02.050** and **70.02.210**, a health care

provider or health care facility may disclose health care information, except for information and records related to sexually transmitted diseases and information related to mental health services which are addressed by RCW **70.02.220** through **70.02.260**, about a patient without the patient's authorization, to:

- (a) Any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;
- (b) Immediate family members of the patient, including a patient's state registered domestic partner, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;
- (c) A health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;
- (d) A person who obtains information for purposes of an audit, if that person agrees in writing to:
 - (i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and
 - (ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;
- (e) Provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;
- (f) Fire, police, sheriff, or other public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;
- (g) Federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor;
- (h) Another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW **70.02.010**(17) (a) and (b);
- (i) An official of a penal or other custodial institution in which the patient is detained; and
- (j) Any law enforcement officer, corrections officer, or guard supplied by a law enforcement or corrections agency who is accompanying a patient pursuant to RCW **10.110.020**, only to the extent the disclosure is incidental to the fulfillment of the role of the law enforcement officer, corrections officer, or guard under RCW **10.110.020**.

(2) In addition to the disclosures required by RCW **70.02.050** and **70.02.210**, a health care provider shall disclose health care information, except for information related to sexually transmitted diseases and information related to mental health services which are addressed by RCW **70.02.220** through **70.02.260**, about a patient without the patient's authorization if the

disclosure is:

- (a) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;
- (b) To federal, state, or local law enforcement authorities, upon receipt of a written or oral request made to a nursing supervisor, administrator, or designated privacy official, in a case in which the patient is being treated or has been treated for a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person, or a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act, the following information, if known:
 - (i) The name of the patient;
 - (ii) The patient's residence;
 - (iii) The patient's sex;
 - (iv) The patient's age;
 - (v) The patient's condition;
 - (vi) The patient's diagnosis, or extent and location of injuries as determined by a health care provider;
 - (vii) Whether the patient was conscious when admitted;
 - (viii) The name of the health care provider making the determination in (b)(v), (vi), and (vii) of this subsection;
 - (ix) Whether the patient has been transferred to another facility; and
 - (x) The patient's discharge time and date;
- (c) Pursuant to compulsory process in accordance with RCW 70.02.060.

[2015 c 267 § 7; 2014 c 220 § 7; 2013 c 200 § 4.]

RCW 70.02.210- Disclosure without patient's authorization—Research.

- (1)(a) A health care provider or health care facility may disclose health care information about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is for use in a research project that an institutional review board has determined:
 - (i) Is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;
 - (ii) Is impracticable without the use or disclosure of the health care information in individually identifiable form;
 - (iii) Contains reasonable safeguards to protect the information from re-disclosure;
 - (iv) Contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and
 - (v) Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project.
- (b) Disclosure under (a) of this subsection may include health care information and records of treatment programs related to chemical dependency addressed in *chapter 70.96A RCW and as authorized by federal law.
- (2) In addition to the disclosures required by RCW 70.02.050 and 70.02.200, a health care provider or health care facility shall disclose health care information about a patient without the patient's authorization if:

- (a) The disclosure is to county coroners and medical examiners for the investigations of deaths;
- (b) The disclosure is to a procurement organization or person to whom a body part passes for the purpose of examination necessary to assure the medical suitability of the body part; or
- (c) The disclosure is to a person subject to the jurisdiction of the federal food and drug administration in regards to a food and drug administration-regulated product or activity for which that person has responsibility for quality, safety, or effectiveness of activities.

[2014 c 220 § 8; 2013 c 200 § 5.]

RCW 70.02.220- Sexually transmitted diseases—Permitted and mandatory disclosures.

(1) No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by this section, RCW **70.02.210**, or chapter **70.24** RCW.

(2) No person may disclose or be compelled to disclose information and records related to sexually transmitted diseases, except as authorized by this section, RCW **70.02.210**, or chapter **70.24** RCW. A person may disclose information related to sexually transmitted diseases about a patient without the patient's authorization, to the extent a recipient needs to know the information, if the disclosure is to:

- (a) The subject of the test or the subject's legal representative for health care decisions in accordance with RCW **7.70.065**, with the exception of such a representative of a minor fourteen years of age or over and otherwise competent;
- (b) The state public health officer as defined in RCW **70.24.017**, a local public health officer, or the centers for disease control of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;
- (c) A health facility or health care provider that procures, processes, distributes, or uses: (i) A human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (ii) semen, including that was provided prior to March 23, 1988, for the purpose of artificial insemination; or (iii) blood specimens;
- (d) Any state or local public health officer conducting an investigation pursuant to RCW **70.24.024**, so long as the record was obtained by means of court-ordered HIV testing pursuant to RCW **70.24.340** or **70.24.024**;
- (e) A person allowed access to the record by a court order granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of the order, the court, in determining the extent to which any disclosure of all or any part of the record of any such test is necessary, shall impose appropriate safeguards against unauthorized disclosure. An order authorizing disclosure must: (i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted; (ii) limit disclosure to those persons whose need for information is the basis for the order; and (iii) include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship, and the treatment services;
- (f) Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in RCW **70.24.022**, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary;
- (g) A law enforcement officer, firefighter, health care provider, health care facility staff person, department of correction's staff person, jail staff person, or other persons as defined by the board of

health in rule pursuant to RCW **70.24.340(4)**, who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, pursuant to RCW **70.24.340(4)**, if a state or local public health officer performs the test;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[**2013 c 200 § 6.**]

RCW 70.02.270- Health care information—Use or disclosure prohibited.

(1) No person who receives health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, or actuarial services, or other health care operations for or on behalf of a health care provider or health care facility, may use or disclose any health care information received from the health care provider or health care facility in any manner that would violate the requirements of this chapter if performed by the health care provider or health care facility.

(2) A health care provider or health care facility that has a contractual relationship with a person to provide services described under subsection (1) of this section may terminate the contractual relationship with the person if the health care provider or health care facility learns that the person

has engaged in a pattern of activity that violates the person's duties under subsection (1) of this section, unless the person took reasonable steps to correct the breach of confidentiality or has discontinued the violating activity.

[2014 c 220 § 10; 2013 c 200 § 11.]

RCW 70.02.280- Health care providers and facilities—Prohibited actions.

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

- (1) Use or disclose health care information for marketing or fund-raising purposes, unless permitted by federal law; or
- (2) Sell health care information to a third party, except:
 - (a) For purposes of treatment or payment;
 - (b) For purposes of sale, transfer, merger, or consolidation of a business;
 - (c) For purposes of remuneration to a third party for services;
 - (d) As disclosures are required by law;
 - (e) For purposes of providing access to or accounting of disclosures to an individual;
 - (f) For public health purposes;
 - (g) For research;
 - (h) With an individual's authorization;
 - (i) Where a reasonable cost-based fee is paid to prepare and transmit health information, where authority to disclose the information is provided in this chapter; or
 - (j) In a format that is de-identified and aggregated.

[2014 c 220 § 11; 2013 c 200 § 12.]

RCW 70.02.300- Sexually transmitted diseases—Required statement upon disclosure.

Whenever disclosure is made of information and records related to sexually transmitted diseases pursuant to this chapter, except for RCW 70.02.050(1)(a) and 70.02.220 (2) (a) and (b) and (7), it must be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written authorization of the person to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure must be accompanied or followed by such a notice within ten days.

[2013 c 200 § 14.]

RCW 70.02.900- Conflicting laws.

- (1) This chapter does not restrict a health care provider, a third-party payor, or an insurer regulated under Title 48 RCW from complying with obligations imposed by federal or state health care payment programs or federal or state law.
 - (2) This chapter does not modify the terms and conditions of disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, *70.96A, and 74.09 RCW and rules adopted under these provisions.
- [2013 c 200 § 20; 2011 c 305 § 10; 2000 c 5 § 4; 1991 c 335 § 901.]

MINORS MEDICAL RELEASE LAWS

RCW 70.02.130- Consent by others Health care representatives.

- (1) A person authorized to consent to health care for another may exercise the rights of that person under this chapter to the extent necessary to effectuate the terms or purposes of the grant of authority. If the patient is a minor and is authorized to consent to health care without parental

consent under federal and state law, only the minor may exercise the rights of a patient under this chapter as to information pertaining to health care to which the minor lawfully consented. In cases where parental consent is required, a health care provider may rely, without incurring any civil or criminal liability for such reliance, on the representation of a parent that he or she is authorized to consent to health care for the minor patient regardless of whether:

- (a) The parents are married, unmarried, or separated at the time of the representation;
 - (b) The consenting parent is, or is not, a custodial parent of the minor;
 - (c) The giving of consent by a parent is, or is not, full performance of any agreement between the parents, or of any order or decree in any action entered pursuant to chapter **26.09** RCW.
- (2) A person authorized to act for a patient shall act in good faith to represent the best interests of the patient.

[**1991 c 335 § 601.**]

COMMUNICABLE DISEASES

RCW 70.24.017- Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- (1) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.
- (2) "Board" means the state board of health.
- (3) "Department" means the department of health, or any successor department with jurisdiction over public health matters.
- (4) "Health care provider" means any person who is a member of a profession under RCW **18.130.040** or other person providing medical, nursing, psychological, or other health care services regulated by the department of health.
- (5) "Health care facility" means a hospital, nursing home, neuropsychiatric or mental health facility, home health agency, hospice, child care agency, group care facility, family foster home, clinic, blood bank, blood center, sperm bank, laboratory, or other social service or health care institution regulated or operated by the department of health.
- (6) "HIV-related condition" means any medical condition resulting from infection with HIV including, but not limited to, seropositivity for HIV.
- (7) "Human immunodeficiency virus" or "HIV" means all HIV and HIV-related viruses which damage the cellular branch of the human immune or neurological systems and leave the infected person immunodeficient or neurologically impaired.
- (8) "Test for a sexually transmitted disease" means a test approved by the board by rule.
- (9) "Legal guardian" means a person appointed by a court to assume legal authority for another who has been found incompetent or, in the case of a minor, a person who has legal custody of the child.
- (10) "Local public health officer" means the officer directing the county health department or his or her designee who has been given the responsibility and authority to protect the health of the public within his or her jurisdiction.
- (11) "Person" includes any natural person, partnership, association, joint venture, trust, public or private corporation, or health facility.
- (12) "Release of test results" means a written authorization for disclosure of any sexually transmitted disease test result which is signed, dated, and which specifies to whom disclosure is

authorized and the time period during which the release is to be effective.

(13) "Sexually transmitted disease" means a bacterial, viral, fungal, or parasitic disease, determined by the board by rule to be sexually transmitted, to be a threat to the public health and welfare, and to be a disease for which a legitimate public interest will be served by providing for regulation and treatment. The board shall designate chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), trachomitis, genital human papilloma virus infection, syphilis, acquired immunodeficiency syndrome (AIDS), and human immunodeficiency virus (HIV) infection as sexually transmitted diseases, and shall consider the recommendations and classifications of the centers for disease control and other nationally recognized medical authorities in designating other diseases as sexually transmitted.

(14) "State public health officer" means the secretary of health or an officer appointed by the secretary.

[2001 c 319 § 4; 1991 c 3 § 322; 1988 c 206 § 101.]

WAC 246-101-005- Purpose of notifiable conditions reporting.

The purpose of notifiable conditions reporting is to provide the information necessary for public health officials to protect the public's health by tracking communicable diseases and other conditions. These data are critical to local health departments and the departments of health and labor and industries in their efforts to prevent and control the spread of diseases and other conditions. Public health officials take steps to protect the public, based on these notifications. Treating persons already ill, providing preventive therapies for individuals who came into contact with infectious agents, investigating and halting outbreaks, and removing harmful health exposures are key ways public health officials protect the public. Public health workers also use these data to assess broader patterns, including historical trends and geographic clustering. By analyzing the broader picture, officials are able to take appropriate actions, including outbreak investigation, redirection of program activities, or policy development.

[Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-101-005, filed 11/22/00, effective 12/23/00.]

WAC 246-101-010- Definitions within the notifiable conditions regulations.

The following definitions apply in the interpretation and enforcement of this chapter:

(1) "Associated death" means a death resulting directly or indirectly from the confirmed condition of influenza or varicella. There should be no period of complete recovery between the illness and death.

(2) "Blood lead level" means a measurement of lead content in whole blood.

(3) "Board" means the Washington state board of health.

(4) "Carrier" means a person harboring a specific infectious agent and serving as a potential source of infection to others.

(5) "Case" means a person, alive or dead, diagnosed with a particular disease or condition by a health care provider with diagnosis based on clinical or laboratory criteria or both.

(6) "Child day care facility" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

(7) "Condition notifiable within three business days" means a notifiable condition that must be reported to the local health officer or the department within three business days following date of diagnosis. For example, if a condition notifiable within three business days is diagnosed on a Friday afternoon, the report must be submitted by the following Wednesday.

(8) "Communicable disease" means a disease caused by an infectious agent that can be transmitted

from one person, animal, or object to another person by direct or indirect means including transmission through an intermediate host or vector, food, water, or air.

(9) "Contact" means a person exposed to an infected person, animal, or contaminated environment that may lead to infection.

(10) "Department" means the Washington state department of health.

(11) "Disease of suspected bioterrorism origin" means a disease caused by viruses, bacteria, fungi, or toxins from living organisms that are used to produce death or disease in humans, animals, or plants. Many of these diseases may have nonspecific presenting symptoms. The following situations could represent a possible bioterrorism event and should be reported immediately to the local health department:

(a) A single diagnosed or strongly suspected case of disease caused by an uncommon agent or a potential agent of bioterrorism occurring in a patient with no known risk factors;

(b) A cluster of patients presenting with a similar syndrome that includes unusual disease characteristics or unusually high morbidity or mortality without obvious etiology; or

(c) Unexplained increase in a common syndrome above seasonally expected levels.

(12) "Elevated blood lead level" means blood lead levels equal to or greater than 10 micrograms per deciliter for persons aged fifteen years or older, or equal to or greater than 5 micrograms per deciliter in children less than fifteen years of age.

(13) "Emerging condition with outbreak potential" means a newly identified condition with potential for person-to-person transmission.

(14) "Food service establishment" means a place, location, operation, site, or facility where food is manufactured, prepared, processed, packaged, dispensed, distributed, sold, served, or offered to the consumer regardless of whether or not compensation for food occurs.

(15) "Health care-associated infection" means an infection acquired in a health care facility.

(16) "Health care facility" means:

(a) Any assisted living facility licensed under chapter **18.20** RCW; birthing center licensed under chapter **18.46** RCW; nursing home licensed under chapter **18.51** RCW; hospital licensed under chapter **70.41** RCW; adult family home licensed under chapter **70.128** RCW; ambulatory surgical facility licensed under chapter **70.230** RCW; or private establishment licensed under chapter **71.12** RCW;

(b) Clinics, or other settings where one or more health care providers practice; and

(c) In reference to a sexually transmitted disease, other settings as defined in chapter **70.24** RCW.

(17) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care who is:

(a) Licensed or certified in this state under Title **18** RCW; or

(b) Military personnel providing health care within the state regardless of licensure.

(18) "Health care services to the patient" means treatment, consultation, or intervention for patient care.

(19) "Health carrier" means a disability insurer regulated under chapter **48.20** or **48.21** RCW, a health care service contractor as defined in RCW **48.44.010**, or a health maintenance organization as defined in RCW **48.46.020**.

(20) "HIV testing" means conducting a laboratory test or sequence of tests to detect the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements to WAC **246-100-207**. To assure that the protection, including, but not limited to, pre- and post-test counseling, consent, and confidentiality afforded to HIV testing as described in chapter **246-100** WAC also applies to the enumeration of CD4 + (T4) lymphocyte counts (CD4 + counts) and

CD4 + (T4) percents of total lymphocytes (CD4 + percents) when used to diagnose HIV infection, CD4 + counts and CD4 + percents will be presumed HIV testing except when shown by clear and convincing evidence to be for use in the following circumstances:

- (a) Monitoring previously diagnosed infection with HIV;
- (b) Monitoring organ or bone marrow transplants;
- (c) Monitoring chemotherapy;
- (d) Medical research; or
- (e) Diagnosis or monitoring of congenital immunodeficiency states or autoimmune states not related to HIV.

The burden of proving the existence of one or more of the circumstances identified in (a) through (e) of this subsection shall be on the person asserting the existence.

(21) "Immediately notifiable condition" means a notifiable condition of urgent public health importance, a case or suspected case of which must be reported to the local health officer or the department without delay at the time of diagnosis or suspected diagnosis, twenty-four hours a day, seven days a week.

(22) "Infection control measures" means the management of infected persons, or of a person suspected to be infected, and others in a manner to prevent transmission of the infectious agent.

(23) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects as defined in RCW **70.02.010**.

(24) "Isolation" means the separation or restriction of activities of infected individuals, or of persons suspected to be infected, from other persons to prevent transmission of the infectious agent.

(25) "Laboratory" means any facility licensed as a medical test site under chapter **70.42** RCW and chapter **246-338** WAC.

(26) "Laboratory director" means the director or manager, by whatever title known, having the administrative responsibility in any licensed medical test site.

(27) "Local health department" means the city, town, county, or district agency providing public health services to persons within the area, established under chapters **70.05**, **70.08**, and **70.46** RCW.

(28) "Local health officer" means the individual having been appointed under chapter **70.05** RCW as the health officer for the local health department, or having been appointed under chapter **70.08** RCW as the director of public health of a combined city-county health department.

(29) "Member of the general public" means any person present within the boundary of the state of Washington.

(30) "Monthly notifiable condition" means a notifiable condition which must be reported to the local health officer or the department within one month of diagnosis.

(31) "Notifiable condition" means a disease or condition of public health importance, a case of which, and for certain diseases, a suspected case of which, must be brought to the attention of the local health officer or the state health officer.

(32) "Other rare diseases of public health significance" means a disease or condition, of general or international public health concern, which is occasionally or not ordinarily seen in the state of Washington including, but not limited to, spotted fever rickettsiosis, babesiosis, tick paralysis, anaplasmosis, and other tick borne diseases. This also includes public health events of international concern and communicable diseases that would be of general public concern if detected in

Washington.

(33) "Outbreak" means the occurrence of cases or suspected cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

(34) "Patient" means a case, suspected case, or contact.

(35) "Pesticide poisoning" means the disturbance of function, damage to structure, or illness in humans resulting from the inhalation, absorption, ingestion of, or contact with any pesticide.

(36) "Principal health care provider" means the attending health care provider recognized as primarily responsible for diagnosis or treatment of a patient, or in the absence of such, the health care provider initiating diagnostic testing or treatment for the patient.

(37) "Public health authorities" means local health departments, the state health department, and the department of labor and industries personnel charged with administering provisions of this chapter.

(38) "Quarantine" means the separation or restriction on activities of an individual having been exposed to or infected with an infectious agent, to prevent disease transmission.

(39) "School" means a facility for programs of education as defined in RCW **28A.210.070** (preschool and kindergarten through grade twelve).

(40) "Sexually transmitted disease (STD)" means a bacterial, viral, fungal, or parasitic disease or condition which is usually transmitted through sexual contact, including:

(a) Acute pelvic inflammatory disease;

(b) Chancroid;

(c) Chlamydia trachomatis infection;

(d) Genital and neonatal Herpes simplex;

(e) Genital human papilloma virus infection;

(f) Gonorrhea;

(g) Granuloma inguinale;

(h) Hepatitis B infection;

(i) Human immunodeficiency virus (HIV) infection and acquired immunodeficiency syndrome (AIDS);

(j) Lymphogranuloma venereum;

(k) Nongonococcal urethritis (NGU); and

(l) Syphilis.

(41) "State health officer" means the person designated by the secretary of the department to serve as statewide health officer, or, in the absence of this designation, the person having primary responsibility for public health matters in the state.

(42) "Suspected case" means a person whose diagnosis is thought likely to be a particular disease or condition with suspected diagnosis based on signs and symptoms, laboratory evidence, or both.

(43) "Third-party payor" means an insurer regulated under Title **48** RCW authorized to transact business in this state or other jurisdiction including a health care service contractor and health maintenance organization, an employee welfare benefit plan, or a state or federal health benefit program as defined in RCW **70.02.010**.

(44) "Unexplained critical illness or death" means cases of illness or death with infectious hallmarks but no known etiology, in previously healthy persons one to forty-nine years of age excluding those with chronic medical conditions (e.g., malignancy, diabetes, AIDS, cirrhosis).

(45) "Veterinarian" means an individual licensed and practicing under provisions of chapter **18.92** RCW, Veterinary medicine, surgery, and dentistry.

[Statutory Authority: RCW **43.20.050**. WSR 14-11-009, § 246-101-010, filed 5/8/14, effective

6/8/14; WSR 11-02-065, § 246-101-010, filed 1/4/11, effective 2/4/11; WSR 00-23-120, § 246-101-010, filed 11/22/00, effective 12/23/00.]

WAC 246-101-015- Provisional condition notification.

This section describes how conditions can become notifiable; what period of time conditions are provisionally notifiable; what analyses must be accomplished during provisional notification status; the transition from provisionally notifiable condition to permanently notifiable condition or deletion of notification requirements. The department's goal for provisionally notifiable conditions is to collect enough information to determine whether requiring notification improves public health.

(1) The state health officer may:

(a) Request reporting of cases and suspected cases of disease and conditions in addition to those required in Tables HC-1 of WAC **246-101-101**, Lab-1 of WAC **246-101-201**, and HF-1 of WAC **246-101-301** on a provisional basis for a period of time less than forty-eight months when:

(i) The disease or condition is newly recognized or recently acknowledged as a public health concern;

(ii) Epidemiological investigation based on notification of cases may contribute to understanding of the disease or condition;

(iii) There is reason to expect that the information acquired through notification will assist the state and/or local health department to design or implement intervention strategies that will result in an improvement in public health; and

(iv) Written notification is provided to all local health officers regarding:

(A) Additional reporting requirements; and

(B) Rationale or justification for specifying the disease or condition as notifiable.

(b) Request laboratories to submit specimens indicative of infections in addition to those required in Table Lab-1 of WAC **246-101-201** on a provisional basis for a period of time less than forty-eight months, if:

(i) The infection is of public health concern;

(ii) The department has a plan for using data gathered from the specimens; and

(iii) Written notification is provided to all local health officers and all laboratory directors explaining:

(A) Actions required; and

(B) Reason for the addition.

(2) Within forty months of the state health officer's designation of a condition as provisionally notifiable in subsection (1)(a) of this section, or requests for laboratories to submit specimens indicative of infections in subsection (1)(b) of this section, the department will conduct an evaluation for the notification requirement that:

(a) Estimates the societal cost resulting from the provisionally notifiable condition;

(i) Determine the prevalence of the provisional notifiable condition; and

(ii) Identify the quantifiable costs resulting from the provisionally notifiable condition; and

(iii) Discuss the qualitative costs resulting from the provisionally notifiable condition.

(b) Describes how the information was used and how it will continue to be used to design and implement intervention strategies aimed at combating the provisionally notifiable condition;

(c) Verifies the effectiveness of previous intervention strategies at reducing the incidence, morbidity, or mortality of the provisional notifiable condition;

(d) Identifies the quantitative and qualitative costs of the provisional notification requirement;

(e) Compares the costs of the provisional notification requirement with the estimated cost savings

resulting from the intervention based on the information provided through the provisional notification requirement;

(f) Describes the effectiveness and utility of using the notifiable conditions process as a mechanism to collect these data; and

(g) Describes that a less burdensome data collection system (example: Biennial surveys) would not provide the information needed to effectively establish and maintain the intervention strategies.

(3) Based upon the evaluation in subsection (2) of this section, the board will assess results of the evaluation after the particular condition is notifiable or the requirement for laboratories to submit specimens indicative of infections has been in place for no longer than forty months. The board will determine based upon the results of the evaluation whether the provisionally notifiable condition or the requirement for laboratories to submit specimens indicative of infections should be:

(a) Permanently notifiable in the same manner as the provisional notification requirement;

(b) Permanently notifiable in a manner that would use the evaluation results to redesign the notification requirements; or

(c) Deleted from the notifiable conditions system.

(4) The department shall have the authority to declare an emergency and institute notification requirements under the provisions of RCW **34.05.350**.

[Statutory Authority: RCW **43.20.050**. WSR 11-02-065, § 246-101-015, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW **43.20.050, 70.24.125**. WSR 05-03-055, § 246-101-015, filed 1/11/05, effective 2/11/05. Statutory Authority: RCW **43.20.050**. WSR 00-23-120, § 246-101-015, filed 11/22/00, effective 12/23/00.]

WAC 246-101-105- Duties of the health care provider.

Health care providers shall:

(1) Notify the local health department where the patient resides, or, in the event that patient residence cannot be determined, the local health department in which the health care providers practice, regarding:

(a) Cases or suspected cases of notifiable conditions specified as notifiable to local health departments in Table HC-1 of WAC **246-101-101**;

(b) Cases of conditions designated as notifiable by the local health officer within that health officer's jurisdiction;

(c) Outbreaks or suspected outbreaks of disease including, but not limited to, suspected or confirmed outbreaks of varicella, influenza, viral meningitis, health care-associated infection suspected due to contaminated food products or devices, or environmentally related disease;

(d) Known barriers which might impede or prevent compliance with orders for infection control or quarantine; and

(e) Name, address, and other pertinent information for any case, suspected case or carrier refusing to comply with prescribed infection control measures.

(2) Notify the department of conditions designated as notifiable to the local health department when:

(a) A local health department is closed or representatives of the local health department are unavailable at the time a case or suspected case of an immediately notifiable condition occurs;

(b) A local health department is closed or representatives of the local health department are unavailable at the time an outbreak or suspected outbreak of communicable disease occurs.

(3) Notify the department of pesticide poisoning that is fatal, causes hospitalization or occurs in a cluster.

(4) Notify the department regarding cases of notifiable conditions specified as notifiable to the

department in Table HC-1 of WAC **246-101-101**.

(5) Assure that positive preliminary test results and positive final test results for notifiable conditions of specimens referred to laboratories outside of Washington for testing are correctly notified to the local health department of the patient's residence or the department as specified in Table Lab-1 of WAC **246-101-201**. This requirement can be satisfied by:

(a) Arranging for the referral laboratory to notify either the local health department, the department, or both; or

(b) Forwarding the notification of the test result from the referral laboratory to the local health department, the department, or both.

(6) Cooperate with public health authorities during investigation of:

(a) Circumstances of a case or suspected case of a notifiable condition or other communicable disease; and

(b) An outbreak or suspected outbreak of disease.

(7) Provide adequate and understandable instruction in disease control measures to each patient who has been diagnosed with a case of a communicable disease, and to contacts who may have been exposed to the disease.

(8) Maintain responsibility for deciding date of discharge for hospitalized tuberculosis patients.

(9) Notify the local health officer of intended discharge of tuberculosis patients in order to assure appropriate outpatient arrangements are arranged.

(10) By July 1, 2011, when ordering a laboratory test for a notifiable condition as identified in Table HC-1 of WAC **246-101-101**, providers must provide the laboratory with the following information for each test order:

(a) Patient name;

(b) Patient address including zip code;

(c) Patient date of birth;

(d) Patient sex;

(e) Name of the principal health care provider;

(f) Telephone number of the principal health care provider;

(g) Type of test requested;

(h) Type of specimen;

(i) Date of ordering specimen collection.

[Statutory Authority: RCW **43.20.050**. WSR 11-02-065, § 246-101-105, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW **43.20.050** and **70.104.030**. WSR 00-23-120, § 246-101-105, filed 11/22/00, effective 12/23/00.]

WAC 246-101-110- Means of notification.

Health care providers shall adhere to the following timelines and procedures:

(1) Conditions designated as immediately notifiable must be reported to the local health officer or the department, as specified in Table HC-1 of WAC **246-101-101**, immediately as the time of diagnosis or suspected diagnosis. This applies twenty-four hours a day, seven days a week. Each local health jurisdiction, as well as the department, maintains after-hours emergency phone contacts for this purpose. A party sending a report by secure facsimile copy or secure electronic transmission during normal business hours must confirm immediate receipt by a live person.

(2) Conditions designated as notifiable within twenty-four hours must be reported to the local health officer or the department, as specified in Table HC-1 of WAC **246-101-101**, within twenty-four hours of diagnosis or suspected diagnosis, seven days a week. Reports during normal public health business hours may be sent by secure electronic transmission, telephone, or secure facsimile

copy of a case report. A party sending a report outside of normal public health business hours must use the after-hours emergency phone contact for the appropriate jurisdiction.

(3) Conditions designated as notifiable within three business days must be reported to the local health officer or department, as specified in Table HC-1 of WAC **246-101-101**, within three business days. Notification may be sent by written case report, secure electronic transmission, telephone, or secure facsimile copy of a case report; and

(4) Conditions designated as notifiable on a monthly basis must be reported to the local health officer or the department, as specified in Table HC-1 of WAC **246-101-101**, on a monthly basis. Notification may be sent by written case report, secure electronic transmission, telephone, or secure facsimile copy of a case report.

[Statutory Authority: RCW **43.20.050**. WSR 11-02-065, § 246-101-110, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW **43.20.050**, **70.24.125**, **70.28.010** and **70.104.030**. WSR 00-23-120, § 246-101-110, filed 11/22/00, effective 12/23/00.]

WAC 246-101-115- Content of notifications.

(1) For each condition listed in Table HC-1 of WAC **246-101-101**, health care providers shall provide the following information for each case or suspected case:

- (a) Patient name;
- (b) Patient address;
- (c) Patient telephone number;
- (d) Patient date of birth;
- (e) Patient sex;
- (f) Diagnosis or suspected diagnosis of disease or condition;
- (g) Pertinent laboratory data, if available;
- (h) Name of the principal health care provider;
- (i) Telephone number of the principal health care provider;
- (j) Address of the principal health care provider;
- (k) Name and telephone number of the person providing the report; and
- (l) Other information as the department may require on forms generated by the department.

(2) The local health officer or state health officer may require other information of epidemiological or public health value.

[Statutory Authority: RCW **43.20.050**. WSR 11-02-065, § 246-101-115, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW **43.20.050**, **43.70.545**, **70.24.125**, **70.28.010** and **70.104.030**. WSR 00-23-120, § 246-101-115, filed 11/22/00, effective 12/23/00.]

WAC 246-101-120- Handling of case reports and medical information.

(1) All records and specimens containing or accompanied by patient identifying information are confidential.

(2) Health care providers who know of a person with a notifiable condition, other than a sexually transmitted disease, shall release identifying information only to other individuals responsible for protecting the health and well-being of the public through control of disease, including the local health department.

(3) Health care providers with knowledge of a person with sexually transmitted disease, and following the basic principles of health care providers, which respect the human dignity and confidentiality of patients:

- (a) May disclose the identity of a person or release identifying information only as specified in RCW **70.24.105**; and
- (b) Shall under RCW **70.24.105**(6), use only the following customary methods for exchange of

medical information:

(i) Health care providers may exchange medical information related to HIV testing, HIV test results, and confirmed HIV or confirmed STD diagnosis and treatment in order to provide health care services to the patient. This means that information shared impacts the care or treatment decisions concerning the patient; and the health care provider requires the information for the patient's benefit.

(ii) Health care providers responsible for office management are authorized to permit access to a patient's medical information and medical record by medical staff or office staff to carry out duties required for care and treatment of a patient and the management of medical information and the patient's medical record.

(c) Health care providers conducting a clinical HIV research project shall report the identity of an individual participating in the project unless:

(i) The project has been approved by an institutional review board; and

(ii) The project has a system in place to remind referring health care providers of their reporting obligations under this chapter.

(4) Health care providers shall establish and implement policies and procedures to maintain confidentiality related to a patient's medical information.

[Statutory Authority: RCW **43.20.050**. WSR 11-02-065, § 246-101-120, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW **43.20.050** and **70.104.030**. WSR 00-23-120, § 246-101-120, filed 11/22/00, effective 12/23/00.]

MENTAL HEALTH RECORD LAWS

RCW 70.02.230- Mental health services, confidentiality of records—Permitted disclosures. (Effective April 1, 2018.)

(1) Except as provided in this section, RCW **70.02.050**, **71.05.445**, **74.09.295**, **70.02.210**, **70.02.240**, **70.02.250**, and **70.02.260**, or pursuant to a valid authorization under RCW **70.02.030**, the fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies must be confidential.

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

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

(i) Employed by the facility;

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

(iii) Who is a designated crisis responder;

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

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

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

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

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom

information or records may be released, or if the person is a minor, when his or her parents make such a designation;

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

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

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

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

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

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

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

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

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

(f) To the attorney of the detained person;

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

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

- (ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;
- (i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.
- (ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;
- (j) To the persons designated in RCW **71.05.425** for the purposes described in those sections;
- (k) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW **70.02.140**;
- (l) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;
- (m) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW **9.41.040(2)(a)(iii)**. The extent of information that may be released is limited as follows:
 - (i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW **9.41.047(1)**, must be disclosed upon request;
 - (ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW **9.41.040(2)(a)(iii)**;
 - (iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;
- (n) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;
- (o) Pursuant to lawful order of a court;
- (p) To qualified staff members of the department, to the director of behavioral health organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;
- (q) Within the mental health service agency where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

- (r) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department;
- (s) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;
- (t) Consistent with the requirements of the federal health information portability and accountability act, to a licensed mental health professional or a health care professional licensed under chapter **18.71**, 18.71A, 18.57, 18.57A, 18.79, or **18.36A** RCW who is providing care to a person, or to whom a person has been referred for evaluation or treatment, to assure coordinated care and treatment of that person. Psychotherapy notes may not be released without authorization of the person who is the subject of the request for release of information;
- (u) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (t) of this subsection;
- (v) To a facility that is to receive a person who is involuntarily committed under chapter **71.05** RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;
- (w) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter **71.05** RCW;
- (x) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;
- (y) To all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW **70.02.050**(1)(d). The department shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. The department may not release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

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

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

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

/s/"

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

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for chemical dependency, the department may restrict the release of the information as necessary to comply with federal law and regulations.

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

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter **71.05** RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW **70.02.260**, in a subsequent criminal prosecution of a person committed pursuant to RCW * **71.05.280(3)** or ** **71.05.320(4)(c)** on charges that were dismissed pursuant to chapter **10.77** RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter **71.09** RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter **71.05** RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW **4.24.550**, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170. [2016 sp.s. c 29 § 417. Prior: 2014 c 225 § 71; 2014 c 220 § 9; 2013 c 200 § 7.]

RCW 70.02.240- Mental health services—Minors—Permitted disclosures.

The fact of admission and all information and records related to mental health services obtained through treatment under chapter 71.34 RCW is confidential, except as authorized in RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250, and 70.02.260. Such confidential information may be disclosed only:

- (1) In communications between mental health professionals to meet the requirements of chapter 71.34 RCW, in the provision of services to the minor, or in making appropriate referrals;
- (2) In the course of guardianship or dependency proceedings;
- (3) To the minor, the minor's parent, and the minor's attorney, subject to RCW 13.50.100;
- (4) To the courts as necessary to administer chapter 71.34 RCW;
- (5) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address must be disclosed upon request;
- (6) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;
- (7) To the secretary of social and health services for assistance in data collection and program evaluation or research so long as the secretary adopts rules for the conduct of such evaluation and research. The rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

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

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

/s/";

- (8) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;
- (9) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any

other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

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

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

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

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

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

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

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

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

(15) For the purpose of a correctional facility participating in the post-institutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW **74.09.555** and **74.09.295**;

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

[**2013 c 200 § 8.**]

RCW 70.02.260- Mental health services—Requests for information and records.

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

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

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

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

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

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

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

(2) The information subject to release under subsection (1) of this section must be released to law

enforcement officers, personnel of a county or city jail, *designated mental health professionals, public health officers, therapeutic court personnel as defined in RCW **71.05.020**, or personnel of the department of corrections, including the indeterminate sentence review board and personnel assigned to perform board-related duties, when such information is requested during the course of business and for the purpose of carrying out the responsibilities of the requesting person's office. No mental health service agency or person employed by a mental health service agency, or its legal counsel, may be liable for information released to or used under the provisions of this section or rules adopted under this section except under RCW **71.05.680**.

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

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

- (i) Completing presentence investigations or risk assessment reports;
- (ii) Assessing a person's risk to the community;
- (iii) Assessing a person's risk of harm to self or others when confined in a city or county jail;
- (iv) Planning for and provision of supervision of an offender, including decisions related to sanctions for violations of conditions of community supervision; and
- (v) Responding to an offender's failure to report for department of corrections supervision;

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

- (i) Has engaged in activity indicating that a crime or a violation of community custody or parole has been committed or, based upon his or her current or recent past behavior, is likely to be committed in the near future; or
- (ii) Is exhibiting signs of a deterioration in mental functioning which may make the individual appropriate for civil commitment under chapter **71.05** RCW; and

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

- (i) The information may be shared with other persons who have the right to request similar information under subsection (2) of this section, solely for the purpose of coordinating activities related to the individual who is the subject of the information in a manner consistent with the official responsibilities of the persons involved;
- (ii) The information may be shared with a prosecuting attorney acting in an advisory capacity for a person who receives information under this section. A prosecuting attorney under this subsection is subject to the same restrictions and confidentiality limitations as the person who requested the information; and
- (iii) As provided in RCW **72.09.585**.

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

(5) In the event of an emergency situation that poses a significant risk to the public or the offender, a mental health service agency, or its legal counsel, shall release information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found to the department of corrections or law enforcement upon request. The initial

request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health service agency and the address or information about the location or whereabouts of the offender.

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

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

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

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

[2013 c 200 § 10.]

RCW 70.02.310- Mental health services—Information and records.

(1) Resource management services shall establish procedures to provide reasonable and timely access to information and records related to mental health services for an individual. However, access may not be denied at any time to records of all medications and somatic treatments received by the person.

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

(3) Information and records related to mental health services may be modified prior to inspection to protect the confidentiality of other patients or the names of any other persons referred to in the record who gave information on the condition that his or her identity remain confidential. Entire documents may not be withheld to protect such confidentiality.

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

[2014 c 220 § 12; 2013 c 200 § 15.]

RCW 70.02.320- Mental health services—Minors—Prompt entry in record upon disclosure.

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

[2013 c 200 § 16.]

MEDICAL RECORD COPY FEES**WAC 246-08-400- How much can a health care provider charge for searching and duplicating health care records?**

RCW **70.02.010** (37) allows health care providers to charge fees for searching and duplicating health care records. The fees a provider may charge cannot exceed the fees listed below:

(1) Copying charge per page:

- (a) No more than one dollar and twelve cents per page for the first thirty pages;
- (b) No more than eighty-four cents per page for all other pages.

(2) Additional charges:

- (a) The provider can charge a twenty-five dollar clerical fee for searching and handling records;
- (b) If the provider personally edits confidential information from the record, as required by statute, the provider can charge the usual fee for a basic office visit.

(3) This section is effective July 1, 2015, through June 30, 2017.

(4) HIPAA covered entities shall refer to HIPAA regulation 45 C.F.R. 164.524 (c)(4).

REFERENCES AND RESOURCES

<http://leg.wa.gov/LawsAndAgencyRules/Pages/default.aspx>

Washington State Medical Board

111 Israel Rd SE

Tumwater, WA 98501

Website: doh.wa.gov

Phone: (360) 236-2750

Board of Dentistry

Dental Health Care Quality Assurance

PO Box 47852

Olympia, Washington 98504

Phone: 360-236-4700

Fax: 360-236-2901

Email: hsqa.csc@doh.wa.gov