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HOUSE BILL 2416

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State of Washington

66th Legislature

2020 Regular Session

By Representatives Kilduff, Chopp, Leavitt, and Macri

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (A) Obtains the patient's agreement;

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

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

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

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

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

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

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

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

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

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