

**Modifying the language of Washington's Patient Privacy Law
HB1477/SB5400**

***Purpose Summary:** Modify language of RCW 70.02.010, 70.02.050, and 70.02.230 to track more closely with the language of the Health Insurance Privacy and Portability Act of 1996 (HIPAA) on issues of protected health information (PHI) for patients receiving treatment for mental illnesses. This clarification of already-existing Washington law will make it easier for family members of mental health patients to receive information from doctors when their loved ones are in crisis.*

- Washington privacy law - specifically RCW 70.02.050 and RCW 70.02.230 - is worded much more restrictively than corresponding federal privacy law on issues of disclosing PHI of patients receiving treatment for mental illnesses.
- The federal HIPAA law states that PHI, even information involving treatment for mental illnesses*, can be disclosed to any person who may be able to lessen a threat to the patient or the public.
- Washington privacy law is currently worded much more restrictively when it comes to disclosing information about mental health patients. Many physicians feel uncomfortable and confused by the language and the result is a culture of strict patient privacy in excess of what is legally required by HIPAA, which can be more harmful than helpful to the patient.
- This bill would modify Washington law to match existing federal law, clarifying that mental health PHI may be disclosed to family members who are able to avoid or minimize a serious and urgent threat.
- For example, a physician who knows a patient has stopped taking their medication may reasonably believe that the patient is at higher risk for suicide (for instance, if the patient had attempted suicide after stopping medication in the past). Under the proposed law, the physician has clear authority to notify the patient's family of this development, if she reasonably believes the family can minimize the threat of suicide.
- This bill also includes protection for physicians from civil liability for acting in accordance with the law. This will help counter the culture of fear among physicians that has made it so difficult for family members to communicate with providers under the current law.
- Ultimately, this law simply aligns Washington privacy law with the federal law, making family involvement in mental health treatment easier to accomplish and less confusing as well as more helpful for an individual with a mental illness.

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* Excluding psychotherapy notes, which can only be obtained with a signed patient authorization.