

**SSB 5185** - H COMM AMD

By Committee on Civil Rights & Judiciary

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 7.70.065 and 2020 c 312 s 705 are each amended to  
4 read as follows:

5 (1) Informed consent for health care for a patient who (~~is a~~  
6 ~~minor or, to consent~~) does not have the capacity to make a health  
7 care decision may be obtained from a person authorized to consent on  
8 behalf of such patient. For purposes of this section, a person who is  
9 of the age of consent to make a particular health care decision is  
10 presumed to have capacity, unless a health care provider reasonably  
11 determines the person lacks capacity to make the health care decision  
12 due to the person's demonstrated inability to understand and  
13 appreciate the nature and consequences of a health condition, the  
14 proposed treatment, including the anticipated results, benefits,  
15 risks, and alternatives to the proposed treatment, including  
16 nontreatment, and reach an informed decision as a result of cognitive  
17 impairment; and the health care provider documents the basis for the  
18 determination in the medical record.

19 (a) Persons authorized to provide informed consent to health care  
20 on behalf of ((a)) an adult patient who (~~has been placed under a~~  
21 ~~guardianship under RCW 11.130.265 a minor or,~~) does not have the  
22 capacity to make a health care decision shall be a member of one of  
23 the following classes of persons in the following order of priority:

24 (i) The appointed guardian of the patient, if any;

25 (ii) The individual, if any, to whom the patient has given a  
26 durable power of attorney that encompasses the authority to make  
27 health care decisions;

28 (iii) The patient's spouse or state registered domestic partner;

29 (iv) Children of the patient who are at least eighteen years of  
30 age;

31 (v) Parents of the patient;

32 (vi) Adult brothers and sisters of the patient;

1 (vii) Adult grandchildren of the patient who are familiar with  
2 the patient;

3 (viii) Adult nieces and nephews of the patient who are familiar  
4 with the patient;

5 (ix) Adult aunts and uncles of the patient who are familiar with  
6 the patient; and

7 (x) (A) An adult who:

8 (I) Has exhibited special care and concern for the patient;

9 (II) Is familiar with the patient's personal values;

10 (III) Is reasonably available to make health care decisions;

11 (IV) Is not any of the following: A physician to the patient or  
12 an employee of the physician; the owner, administrator, or employee  
13 of a health care facility, nursing home, or long-term care facility  
14 where the patient resides or receives care; or a person who receives  
15 compensation to provide care to the patient; and

16 (V) Provides a declaration under (a) (x) (B) of this subsection.

17 (B) An adult who meets the requirements of (a) (x) (A) of this  
18 subsection shall provide a declaration, which is effective for up to  
19 six months from the date of the declaration, signed and dated under  
20 penalty of perjury pursuant to chapter 5.50 RCW, that recites facts  
21 and circumstances demonstrating that he or she is familiar with the  
22 patient and that he or she:

23 (I) Meets the requirements of (a) (x) (A) of this subsection;

24 (II) Is a close friend of the patient;

25 (III) Is willing and able to become involved in the patient's  
26 health care;

27 (IV) Has maintained such regular contact with the patient as to  
28 be familiar with the patient's activities, health, personal values,  
29 and morals; and

30 (V) Is not aware of a person in a higher priority class willing  
31 and able to provide informed consent to health care on behalf of the  
32 patient.

33 (C) A health care provider may, but is not required to, rely on a  
34 declaration provided under (a) (x) (B) of this subsection. The health  
35 care provider or health care facility where services are rendered is  
36 immune from suit in any action, civil or criminal, or from  
37 professional or other disciplinary action when such reliance is based  
38 on a declaration provided in compliance with (a) (x) (B) of this  
39 subsection.

1 (b) If the health care provider seeking informed consent for  
2 proposed health care of the patient who (~~has been placed under a~~  
3 ~~guardianship under RCW 11.130.265,~~) does not have the capacity to  
4 make a particular health care decision, other than a person who is  
5 under the age of consent for the particular health care decision,  
6 makes reasonable efforts to locate and secure authorization from a  
7 competent person in the first or succeeding class and finds no such  
8 person available, authorization may be given by any person in the  
9 next class in the order of descending priority. However, no person  
10 under this section may provide informed consent to health care:

11 (i) If a person of higher priority under this section has refused  
12 to give such authorization; or

13 (ii) If there are two or more individuals in the same class and  
14 the decision is not unanimous among all available members of that  
15 class.

16 (c) Before any person authorized to provide informed consent on  
17 behalf of a patient who (~~has been placed under a guardianship under~~  
18 ~~RCW 11.130.265,~~) does not have the capacity to make a health care  
19 decision exercises that authority, the person must first determine in  
20 good faith that that patient, if (~~competent~~) he or she had the  
21 capacity to make the health care decision, would consent to the  
22 proposed health care. If such a determination cannot be made, the  
23 decision to consent to the proposed health care may be made only  
24 after determining that the proposed health care is in the patient's  
25 best interests. This subsection (1)(c) does not apply to informed  
26 consent provided on behalf of a patient who has not reached the age  
27 of consent required to make a particular health care decision.

28 (d) No rights under Washington's death with dignity act, chapter  
29 70.245 RCW, may be exercised through a person authorized to provide  
30 informed consent to health care on behalf of a patient who (~~is a~~  
31 ~~minor or has been placed under a guardianship under RCW 11.130.265~~)  
32 does not have the capacity to make a health care decision.

33 (2) Informed consent for health care, including mental health  
34 care, for a patient who is under the age of majority and who is not  
35 otherwise authorized to provide informed consent, may be obtained  
36 from a person authorized to consent on behalf of such a patient.

37 (a) Persons authorized to provide informed consent to health  
38 care, including mental health care, on behalf of a patient who is  
39 under the age of majority and who is not otherwise authorized to

1 provide informed consent, shall be a member of one of the following  
2 classes of persons in the following order of priority:

3 (i) The appointed guardian, or legal custodian authorized  
4 pursuant to Title 26 RCW, of the minor patient, if any;

5 (ii) A person authorized by the court to consent to medical care  
6 for a child in out-of-home placement pursuant to chapter 13.32A or  
7 13.34 RCW, if any;

8 (iii) Parents of the minor patient;

9 (iv) The individual, if any, to whom the minor's parent has given  
10 a signed authorization to make health care decisions for the minor  
11 patient; and

12 (v) A competent adult representing himself or herself to be a  
13 relative responsible for the health care of such minor patient or a  
14 competent adult who has signed and dated a declaration under penalty  
15 of perjury pursuant to chapter 5.50 RCW stating that the adult person  
16 is a relative responsible for the health care of the minor patient.  
17 Such declaration shall be effective for up to six months from the  
18 date of the declaration.

19 (b)(i) Informed consent for health care on behalf of a patient  
20 who is under the age of majority and who is not otherwise authorized  
21 to provide informed consent may be obtained from a school nurse,  
22 school counselor, or homeless student liaison when:

23 (A) Consent is necessary for nonemergency, outpatient, primary  
24 care services, including physical examinations, vision examinations  
25 and eyeglasses, dental examinations, hearing examinations and hearing  
26 aids, immunizations, treatments for illnesses and conditions, and  
27 routine follow-up care customarily provided by a health care provider  
28 in an outpatient setting, excluding elective surgeries;

29 (B) The minor patient meets the definition of a "homeless child  
30 or youth" under the federal McKinney-Vento homeless education  
31 assistance improvements act of 2001, P.L. 107-110, January 8, 2002,  
32 115 Stat. 2005; and

33 (C) The minor patient is not under the supervision or control of  
34 a parent, custodian, or legal guardian, and is not in the care and  
35 custody of the department of social and health services.

36 (ii) A person authorized to consent to care under this subsection  
37 (2)(b) and the person's employing school or school district are not  
38 subject to administrative sanctions or civil damages resulting from  
39 the consent or nonconsent for care, any care, or payment for any  
40 care, rendered pursuant to this section. Nothing in this section

1 prevents a health care facility or a health care provider from  
2 seeking reimbursement from other sources for care provided to a minor  
3 patient under this subsection (2)(b).

4 (iii) Upon request by a health care facility or a health care  
5 provider, a person authorized to consent to care under this  
6 subsection (2)(b) must provide to the person rendering care a  
7 declaration signed and dated under penalty of perjury pursuant to  
8 chapter 5.50 RCW stating that the person is a school nurse, school  
9 counselor, or homeless student liaison and that the minor patient  
10 meets the elements under (b)(i) of this subsection. The declaration  
11 must also include written notice of the exemption from liability  
12 under (b)(ii) of this subsection.

13 (c) A health care provider may, but is not required to, rely on  
14 the representations or declaration of a person claiming to be a  
15 relative responsible for the care of the minor patient, under (a)(v)  
16 of this subsection, or a person claiming to be authorized to consent  
17 to the health care of the minor patient under (b) of this subsection,  
18 if the health care provider does not have actual notice of the  
19 falsity of any of the statements made by the person claiming to be a  
20 relative responsible for the health care of the minor patient, or  
21 person claiming to be authorized to consent to the health care of the  
22 minor patient.

23 (d) A health care facility or a health care provider may, in its  
24 discretion, require documentation of a person's claimed status as  
25 being a relative responsible for the health care of the minor  
26 patient, or a person claiming to be authorized to consent to the  
27 health care of the minor patient under (b) of this subsection.  
28 However, there is no obligation to require such documentation.

29 (e) The health care provider or health care facility where  
30 services are rendered shall be immune from suit in any action, civil  
31 or criminal, or from professional or other disciplinary action when  
32 such reliance is based on a declaration signed under penalty of  
33 perjury pursuant to chapter 5.50 RCW stating that the adult person is  
34 a relative responsible for the health care of the minor patient under  
35 (a)(v) of this subsection, or a person claiming to be authorized to  
36 consent to the health care of the minor patient under (b) of this  
37 subsection.

38 (3) For the purposes of this section, "health care," "health care  
39 provider," and "health care facility" shall be defined as established  
40 in RCW 70.02.010.

1 (4) A person who knowingly provides a false declaration under  
2 this section shall be subject to criminal penalties under chapter  
3 9A.72 RCW.

4 **Sec. 2.** RCW 7.70.050 and 2011 c 336 s 252 are each amended to  
5 read as follows:

6 (1) The following shall be necessary elements of proof that  
7 injury resulted from health care in a civil negligence case or  
8 arbitration involving the issue of the alleged breach of the duty to  
9 secure an informed consent by a patient or his or her representatives  
10 against a health care provider:

11 (a) That the health care provider failed to inform the patient of  
12 a material fact or facts relating to the treatment;

13 (b) That the patient consented to the treatment without being  
14 aware of or fully informed of such material fact or facts;

15 (c) That a reasonably prudent patient under similar circumstances  
16 would not have consented to the treatment if informed of such  
17 material fact or facts;

18 (d) That the treatment in question proximately caused injury to  
19 the patient.

20 (2) Under the provisions of this section a fact is defined as or  
21 considered to be a material fact, if a reasonably prudent person in  
22 the position of the patient or his or her representative would attach  
23 significance to it deciding whether or not to submit to the proposed  
24 treatment.

25 (3) Material facts under the provisions of this section which  
26 must be established by expert testimony shall be either:

27 (a) The nature and character of the treatment proposed and  
28 administered;

29 (b) The anticipated results of the treatment proposed and  
30 administered;

31 (c) The recognized possible alternative forms of treatment; or

32 (d) The recognized serious possible risks, complications, and  
33 anticipated benefits involved in the treatment administered and in  
34 the recognized possible alternative forms of treatment, including  
35 nontreatment.

36 (4) If a recognized health care emergency exists and the patient  
37 (~~is not legally competent~~) does not have the capacity to give an  
38 informed consent and/or a person legally authorized to consent on

1 behalf of the patient is not readily available, his or her consent to  
2 required treatment will be implied.

3 **Sec. 3.** RCW 7.70.060 and 2012 c 101 s 1 are each amended to read  
4 as follows:

5 (1) If a patient (~~(while legally competent)~~) who has capacity to  
6 make health a care decision, or his or her representative if he or  
7 she (~~(is not competent)~~) does not have the capacity to make a health  
8 care decision, signs a consent form which sets forth the following,  
9 the signed consent form shall constitute prima facie evidence that  
10 the patient gave his or her informed consent to the treatment  
11 administered and the patient has the burden of rebutting this by a  
12 preponderance of the evidence:

13 (a) A description, in language the patient could reasonably be  
14 expected to understand, of:

- 15 (i) The nature and character of the proposed treatment;  
16 (ii) The anticipated results of the proposed treatment;  
17 (iii) The recognized possible alternative forms of treatment; and  
18 (iv) The recognized serious possible risks, complications, and  
19 anticipated benefits involved in the treatment and in the recognized  
20 possible alternative forms of treatment, including nontreatment;

21 (b) Or as an alternative, a statement that the patient elects not  
22 to be informed of the elements set forth in (a) of this subsection.

23 (2) If a patient (~~(while legally competent)~~) who has capacity to  
24 make a health care decision, or his or her representative if he or  
25 she (~~(is not competent)~~) does not have the capacity to make a health  
26 care decision, signs an acknowledgment of shared decision making as  
27 described in this section, such acknowledgment shall constitute prima  
28 facie evidence that the patient gave his or her informed consent to  
29 the treatment administered and the patient has the burden of  
30 rebutting this by clear and convincing evidence. An acknowledgment of  
31 shared decision making shall include:

32 (a) A statement that the patient, or his or her representative,  
33 and the health care provider have engaged in shared decision making  
34 as an alternative means of meeting the informed consent requirements  
35 set forth by laws, accreditation standards, and other mandates;

36 (b) A brief description of the services that the patient and  
37 provider jointly have agreed will be furnished;

38 (c) A brief description of the patient decision aid or aids that  
39 have been used by the patient and provider to address the needs for

1 (i) high-quality, up-to-date information about the condition,  
2 including risk and benefits of available options and, if appropriate,  
3 a discussion of the limits of scientific knowledge about outcomes;  
4 (ii) values clarification to help patients sort out their values and  
5 preferences; and (iii) guidance or coaching in deliberation, designed  
6 to improve the patient's involvement in the decision process;

7 (d) A statement that the patient or his or her representative  
8 understands: The risk or seriousness of the disease or condition to  
9 be prevented or treated; the available treatment alternatives,  
10 including nontreatment; and the risks, benefits, and uncertainties of  
11 the treatment alternatives, including nontreatment; and

12 (e) A statement certifying that the patient or his or her  
13 representative has had the opportunity to ask the provider questions,  
14 and to have any questions answered to the patient's satisfaction, and  
15 indicating the patient's intent to receive the identified services.

16 (3) As used in this section, "shared decision making" means a  
17 process in which the physician or other health care practitioner  
18 discusses with the patient or his or her representative the  
19 information specified in subsection (2) of this section with the use  
20 of a patient decision aid and the patient shares with the provider  
21 such relevant personal information as might make one treatment or  
22 side effect more or less tolerable than others.

23 (4)(a) As used in this section, "patient decision aid" means a  
24 written, audiovisual, or online tool that provides a balanced  
25 presentation of the condition and treatment options, benefits, and  
26 harms, including, if appropriate, a discussion of the limits of  
27 scientific knowledge about outcomes, for any medical condition or  
28 procedure, including abortion as defined in RCW 9.02.170 and:

29 (i)(A) That is certified by one or more national certifying  
30 organizations recognized by the medical director of the health care  
31 authority; or

32 (B) That has been evaluated based on the international patient  
33 decision aid standards by an organization located in the United  
34 States or Canada and has a current overall score satisfactory to the  
35 medical director of the health care authority; or

36 (ii) That, if a current evaluation is not available from an  
37 organization located in the United States or Canada, the medical  
38 director of the health care authority has independently assessed and  
39 certified based on the international patient decision aid standards.



1 (b) The health care authority may charge a fee to the  
2 certification applicant to defray the costs of the assessment and  
3 certification under this subsection.

4 (5) Failure to use a form or to engage in shared decision making,  
5 with or without the use of a patient decision aid, shall not be  
6 admissible as evidence of failure to obtain informed consent. There  
7 shall be no liability, civil or otherwise, resulting from a health  
8 care provider choosing either the signed consent form set forth in  
9 subsection (1)(a) of this section or the signed acknowledgment of  
10 shared decision making as set forth in subsection (2) of this  
11 section.

12 **Sec. 4.** RCW 69.50.317 and 2019 c 314 s 17 are each amended to  
13 read as follows:

14 (1) Any practitioner who writes the first prescription for an  
15 opioid during the course of treatment to any patient must, under  
16 professional rules, discuss the following with the patient:

17 (a) The risks of opioids, including risk of dependence and  
18 overdose;

19 (b) Pain management alternatives to opioids, including nonopioid  
20 pharmacological treatments, and nonpharmacological treatments  
21 available to the patient, at the discretion of the practitioner and  
22 based on the medical condition of the patient; and

23 (c) A written copy of the warning language provided by the  
24 department under RCW 43.70.765.

25 (2) If the patient is under eighteen years old or (~~is not~~  
26 ~~competent~~) does not have the capacity to make a health care  
27 decision, the discussion required by subsection (1) of this section  
28 must include the patient's parent, guardian, or the person identified  
29 in RCW 7.70.065, unless otherwise provided by law.

30 (3) The practitioner shall document completion of the  
31 requirements in subsection (1) of this section in the patient's  
32 health care record.

33 (4) To fulfill the requirements of subsection (1) of this  
34 section, a practitioner may designate any individual who holds a  
35 credential issued by a disciplining authority under RCW 18.130.040 to  
36 conduct the discussion.

37 (5) Violation of this section constitutes unprofessional conduct  
38 under chapter 18.130 RCW.

39 (6) This section does not apply to:

1 (a) Opioid prescriptions issued for the treatment of pain  
2 associated with terminal cancer or other terminal diseases, or for  
3 palliative, hospice, or other end-of-life care of where the  
4 practitioner determines the health, well-being, or care of the  
5 patient would be compromised by the requirements of this section and  
6 documents such basis for the determination in the patient's health  
7 care record; or

8 (b) Administration of an opioid in an inpatient or outpatient  
9 treatment setting.

10 (7) This section does not apply to practitioners licensed under  
11 chapter 18.92 RCW.

12 (8) The department shall review this section by March 31, 2026,  
13 and report to the appropriate committees of the legislature on  
14 whether this section should be retained, repealed, or amended.

15 **Sec. 5.** RCW 70.02.220 and 2017 3rd sp.s. c 6 s 332 are each  
16 amended to read as follows:

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

21 (2) No person may disclose or be compelled to disclose  
22 information and records related to sexually transmitted diseases,  
23 except as authorized by this section, RCW 70.02.210, 70.02.205, or  
24 chapter 70.24 RCW. A person may disclose information related to  
25 sexually transmitted diseases about a patient without the patient's  
26 authorization, to the extent a recipient needs to know the  
27 information, if the disclosure is to:

28 (a) The subject of the test or the subject's legal representative  
29 for health care decisions in accordance with RCW 7.70.065, with the  
30 exception of such a representative of a minor fourteen years of age  
31 or over and otherwise (~~competent~~) capable of making health care  
32 decisions;

33 (b) The state (~~public~~) health officer as defined in RCW  
34 70.24.017, a local public health officer, or the centers for disease  
35 control of the United States public health service in accordance with  
36 reporting requirements for a diagnosed case of a sexually transmitted  
37 disease;

38 (c) A health facility or health care provider that procures,  
39 processes, distributes, or uses: (i) A human body part, tissue, or

1 blood from a deceased person with respect to medical information  
2 regarding that person; (ii) semen, including that was provided prior  
3 to March 23, 1988, for the purpose of artificial insemination; or  
4 (iii) blood specimens;

5 (d) Any state or local public health officer conducting an  
6 investigation pursuant to RCW 70.24.024, so long as the record was  
7 obtained by means of court-ordered HIV testing pursuant to RCW  
8 70.24.340 or 70.24.024;

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

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

30 (g) A law enforcement officer, firefighter, health care provider,  
31 health care facility staff person, department of correction's staff  
32 person, jail staff person, or other persons as defined by the board  
33 of health in rule pursuant to RCW 70.24.340(~~((4))~~), who has requested  
34 a test of a person whose bodily fluids he or she has been  
35 substantially exposed to, pursuant to RCW 70.24.340(~~((4))~~), if a  
36 state or local public health officer performs the test;

37 (h) Claims management personnel employed by or associated with an  
38 insurer, health care service contractor, health maintenance  
39 organization, self-funded health plan, state administered health care  
40 claims payer, or any other payer of health care claims where such

1 disclosure is to be used solely for the prompt and accurate  
2 evaluation and payment of medical or related claims. Information  
3 released under this subsection must be confidential and may not be  
4 released or available to persons who are not involved in handling or  
5 determining medical claims payment; and

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

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

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

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

39 (b) The sexually transmitted disease status of a person detained  
40 in a jail who has had a mandatory test conducted pursuant to RCW

1 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the  
2 local public health officer to a jail health care administrator or  
3 infection control coordinator. The information made available to a  
4 health care administrator under this subsection (4)(b) may be used  
5 only for disease prevention or control and for protection of the  
6 safety and security of the staff, offenders, detainees, and the  
7 public. The information may be submitted to transporting officers and  
8 receiving facilities according to the provisions of (d) and (e) of  
9 this subsection.

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

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

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

1 (f) The test results of voluntary and anonymous HIV testing or  
2 HIV-related condition, as defined in RCW 70.24.017, may not be  
3 disclosed to a staff person except as provided in this section and  
4 RCW 70.02.050(1)(d) and 70.24.340(~~(4)~~). A health care administrator  
5 or infection control coordinator may provide the staff member with  
6 information about how to obtain the offender's or detainee's test  
7 results under this section and RCW 70.02.050(1)(d) and  
8 70.24.340(~~(4)~~).

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

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

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

33 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2022."

34 Correct the title.

EFFECT: Removes the presumption that an adult subject to a  
guardianship that includes health care decision making under the  
Uniform Guardianship, Conservatorship, and Other Protective

Arrangements Act does not have the capacity to make a health care decision.

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