

2 **ESHB 1046** - S AMD - 386

3 By Senators Quigley, Deccio, Owen and Moyer

4 ADOPTED AS AMENDED 4/14/95

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 70.47 RCW
8 to read as follows:

9 BASIC HEALTH PLAN--EXPANDED ENROLLMENT. (1) The legislature finds
10 that the basic health plan has been an effective program in providing
11 health coverage for uninsured residents. Further, since 1993,
12 substantial amounts of public funds have been allocated for subsidized
13 basic health plan enrollment.

14 (2) It is the intent of the legislature that the basic health plan
15 enrollment be expanded expeditiously, consistent with funds available
16 in the health services account, with the goal of two hundred thousand
17 adult subsidized basic health plan enrollees and one hundred thirty
18 thousand children covered through expanded medical assistance services
19 by June 30, 1997, with the priority of providing needed health services
20 to children in conjunction with other public programs.

21 (3) Effective January 1, 1996, basic health plan enrollees whose
22 income is less than one hundred twenty-five percent of the federal
23 poverty level shall pay at least a ten-dollar premium share.

24 (4) No later than July 1, 1996, the administrator shall implement
25 procedures whereby hospitals licensed under chapters 70.41 and 71.12
26 RCW, health carrier, rural health care facilities regulated under
27 chapter 70.175 RCW, and community and migrant health centers funded
28 under RCW 41.05.220, may expeditiously assist patients and their
29 families in applying for basic health plan or medical assistance
30 coverage, and in submitting such applications directly to the health
31 care authority or the department of social and health services. The
32 health care authority and the department of social and health services
33 shall make every effort to simplify and expedite the application and
34 enrollment process.

35 (5) No later than July 1, 1996, the administrator shall implement
36 procedures whereby health insurance agents and brokers, licensed under

1 chapter 48.17 RCW, may expeditiously assist patients and their families
2 in applying for basic health plan or medical assistance coverage, and
3 in submitting such applications directly to the health care authority
4 or the department of social and health services. Brokers and agents
5 shall be entitled to receive a commission for each individual sale of
6 the basic health plan to anyone not at anytime previously signed up and
7 a commission for each group sale of the basic health plan. No
8 commission shall be provided upon a renewal. Commissions shall be
9 determined based on the estimated annual cost of the basic health plan,
10 however, commissions shall not result in a reduction in the premium
11 amount paid to health carriers. For purposes of this section "health
12 carrier" is as defined in section 4 of this act. The health care
13 authority and the department of social and health services shall make
14 every effort to simplify and expedite the application and enrollment
15 process.

16 NEW SECTION. **Sec. 2.** HEALTH CARE SAVINGS ACCOUNTS. (1) This
17 chapter shall be known as the health care savings account act.

18 (2) The legislature recognizes that the costs of health care are
19 increasing rapidly and most individuals are removed from participating
20 in the purchase of their health care.

21 As a result, it becomes critical to encourage and support solutions
22 to alleviate the demand for diminishing state resources. In response
23 to these increasing costs in health care spending, the legislature
24 intends to clarify that health care savings accounts may be offered as
25 health benefit options to all residents as incentives to reduce
26 unnecessary health services utilization, administration, and paperwork,
27 and to encourage individuals to be in charge of and participate
28 directly in their use of service and health care spending. To
29 alleviate the possible impoverishment of residents requiring long-term
30 care, health care savings accounts may promote savings for long-term
31 care and provide incentives for individuals to protect themselves from
32 financial hardship due to a long-term health care need.

33 (3) Health care savings accounts are authorized in Washington state
34 as options to employers and residents.

35 NEW SECTION. **Sec. 3.** HEALTH CARE SAVINGS ACCOUNTS--REQUEST FOR
36 TAX EXEMPTION. The governor and responsible agencies shall:

1 (1) Request that the United States congress amend the internal
2 revenue code to treat premiums and contributions to health benefits
3 plans, such as health care savings account programs, basic health
4 plans, conventional and standard health plans offered through a health
5 carrier, by employers, self-employed persons, and individuals, as fully
6 excluded employer expenses and deductible from individual adjusted
7 gross income for federal tax purposes.

8 (2) Request that the United States congress amend the internal
9 revenue code to exempt from federal income tax interest that accrues in
10 health care savings accounts until such money is withdrawn for
11 expenditures other than eligible health expenses as defined in law.

12 (3) If all federal statute or regulatory waivers necessary to fully
13 implement this chapter have not been obtained by the effective date of
14 this section, this chapter shall remain in effect.

15 NEW SECTION. **Sec. 4.** DEFINITIONS. Unless otherwise specifically
16 provided, the definitions in this section apply throughout this
17 chapter.

18 (1) "Adjusted community rate" means the rating method used to
19 establish the premium for health plans adjusted to reflect actuarially
20 demonstrated differences in utilization or cost attributable to
21 geographic region, age, family size, and use of wellness activities.

22 (2) "Covered person" or "enrollee" means a person covered by a
23 health plan including an enrollee, subscriber, policyholder,
24 beneficiary of a group plan, or individual covered by any other health
25 plan.

26 (3) "Eligible employee" means an employee who works on a full-time
27 basis with a normal work week of thirty or more hours. The term
28 includes a self-employed individual, including a sole proprietor, a
29 partner of a partnership, and may include an independent contractor, if
30 the self-employed individual, sole proprietor, partner, or independent
31 contractor is included as an employee under a health benefit plan of a
32 small employer, but does not work less than thirty hours per week and
33 derives at least seventy-five percent of his or her income from a trade
34 or business through which he or she has attempted to earn taxable
35 income and for which he or she has filed the appropriate internal
36 revenue service form. Persons covered under a health benefit plan
37 pursuant to the consolidated omnibus budget reconciliation act of 1986

1 shall not be considered eligible employees for purposes of minimum
2 participation requirements of this act.

3 (4) "Enrollee point-of-service cost-sharing" means amounts paid to
4 health carriers directly providing services, health care providers, or
5 health care facilities by enrollees and may include copayments,
6 coinsurance, or deductibles.

7 (5) "Health care facility" or "facility" means hospices licensed
8 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,
9 rural health care facilities as defined in RCW 70.175.020, psychiatric
10 hospitals licensed under chapter 71.12 RCW, nursing homes licensed
11 under chapter 18.51 RCW, community mental health centers licensed under
12 chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed
13 under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical
14 facilities licensed under chapter 70.41 RCW, drug and alcohol treatment
15 facilities licensed under chapter 70.96A RCW, and home health agencies
16 licensed under chapter 70.127 RCW, and includes such facilities if
17 owned and operated by a political subdivision or instrumentality of the
18 state and such other facilities as required by federal law and
19 implementing regulations.

20 (6) "Health care provider" or "provider" means:

21 (a) A person regulated under Title 18 or chapter 70.127 RCW, to
22 practice health or health-related services or otherwise practicing
23 health care services in this state consistent with state law; or

24 (b) An employee or agent of a person described in (a) of this
25 subsection, acting in the course and scope of his or her employment.

26 (7) "Health care service" means that service offered or provided by
27 health care facilities and health care providers relating to the
28 prevention, cure, or treatment of illness, injury, or disease.

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

33 (9) "Health plan" or "health benefit plan" means any policy,
34 contract, or agreement offered by a health carrier to provide, arrange,
35 reimburse, or pay for health care service except the following:

36 (a) Long-term care insurance governed by chapter 48.84 RCW;

37 (b) Medicare supplemental health insurance governed by chapter
38 48.66 RCW;

1 (c) Limited health care service offered by limited health care
2 service contractors in accordance with RCW 48.44.035;

3 (d) Disability income;

4 (e) Coverage incidental to a property/casualty liability insurance
5 policy such as automobile personal injury protection coverage and
6 homeowner guest medical;

7 (f) Workers' compensation coverage;

8 (g) Accident only coverage;

9 (h) Specified disease and hospital confinement indemnity when
10 marketed solely as a supplement to a health plan;

11 (i) Employer-sponsored self-funded health plans; and

12 (j) Dental only and vision only coverage.

13 (10) "Basic health plan services" means that schedule of covered
14 health services, including the description of how those benefits are to
15 be administered, that are required to be delivered to an enrollee under
16 the basic health plan, as revised from time to time.

17 (11) "Preexisting condition" means any medical condition, illness,
18 or injury that existed any time prior to the effective date of
19 coverage.

20 (12) "Premium" means all sums charged, received, or deposited by a
21 health carrier as consideration for a health plan or the continuance of
22 a health plan. Any assessment or any "membership," "policy,"
23 "contract," "service," or similar fee or charge made by a health
24 carrier in consideration for a health plan is deemed part of the
25 premium. "Premium" shall not include amounts paid as enrollee point-
26 of-service cost-sharing.

27 (13) "Small employer" means any person, firm, corporation,
28 partnership, association, political subdivision except school
29 districts, or self-employed individual that is actively engaged in
30 business that, on at least fifty percent of its working days during the
31 preceding calendar quarter, employed no more than fifty eligible
32 employees, with a normal work week of thirty or more hours, the
33 majority of whom were employed within this state, and is not formed
34 primarily for purposes of buying health insurance and in which a bona
35 fide employer-employee relationship exists. In determining the number
36 of eligible employees, companies that are affiliated companies, or that
37 are eligible to file a combined tax return for purposes of taxation by
38 this state, shall be considered an employer. Subsequent to the
39 issuance of a health plan to a small employer and for the purpose of

1 determining eligibility, the size of a small employer shall be
2 determined annually. Except as otherwise specifically provided, a
3 small employer shall continue to be considered a small employer until
4 the plan anniversary following the date the small employer no longer
5 meets the requirements of this definition. The term "small employer"
6 includes a self-employed individual or sole proprietor. The term
7 "small employer" also includes a self-employed individual or sole
8 proprietor who derives at least seventy-five percent of his or her
9 income from a trade or business through which the individual or sole
10 proprietor has attempted to earn taxable income and for which he or she
11 has filed the appropriate Internal Revenue Service form 1040, Schedule
12 C or F, for the previous taxable year.

13 (14) "Wellness activity" means an explicit program of an activity
14 consistent with department of health guidelines, such as, smoking
15 cessation, injury and accident prevention, reduction of alcohol misuse,
16 appropriate weight reduction, exercise, automobile and motorcycle
17 safety, blood cholesterol reduction, and nutrition education for the
18 purpose of improving enrollee health status and reducing health service
19 costs.

20 (15) "Basic health plan" means the plan described under chapter
21 70.47 RCW, as revised from time to time.

22 NEW SECTION. **Sec. 5.** INSURANCE REFORM--PORTABILITY. (1) Every
23 health carrier shall waive any preexisting condition exclusion or
24 limitation for persons or groups who had similar health coverage under
25 a different health plan at any time during the three-month period
26 immediately preceding the date of application for the new health plan
27 if such person was continuously covered under the immediately preceding
28 health plan. If the person was continuously covered for at least three
29 months under the immediately preceding health plan, the carrier may not
30 impose a waiting period for coverage of preexisting conditions. If the
31 person was continuously covered for less than three months under the
32 immediately preceding health plan, the carrier must credit any waiting
33 period under the immediately preceding health plan toward the new
34 health plan. For the purposes of this subsection, a preceding health
35 plan includes an employer provided self-funded health plan.

36 (2) Subject to the provisions of subsection (1) of this section,
37 nothing contained in this section requires a health carrier to amend a
38 health plan to provide new benefits in its existing health plans. In

1 addition, nothing in this section requires a carrier to waive benefit
2 limitations not related to an individual or group's preexisting
3 conditions or health history.

4 NEW SECTION. **Sec. 6.** INSURANCE REFORM--PREEXISTING CONDITIONS.

5 (1) No carrier may reject an individual for health plan coverage based
6 upon preexisting conditions of the individual and no carrier may deny,
7 exclude, or otherwise limit coverage for an individual's preexisting
8 health conditions; except that a carrier may impose a three-month
9 benefit waiting period for preexisting conditions for which medical
10 advice was given, or for which a health care provider recommended or
11 provided treatment within three months before the effective date of
12 coverage.

13 (2) No carrier may avoid the requirements of this section through
14 the creation of a new rate classification or the modification of an
15 existing rate classification. A new or changed rate classification
16 will be deemed an attempt to avoid the provisions of this section if
17 the new or changed classification would substantially discourage
18 applications for coverage from individuals or groups who are higher
19 than average health risks. These provisions apply only to individuals
20 who are Washington residents.

21 NEW SECTION. **Sec. 7.** INSURANCE REFORM--GUARANTEED ISSUE. (1) All

22 health carriers shall accept for enrollment any state resident within
23 the carrier's service area and provide or assure the provision of all
24 covered services regardless of age, sex, family structure, ethnicity,
25 race, health condition, geographic location, employment status,
26 socioeconomic status, other condition or situation, or the provisions
27 of RCW 49.60.174(2). The insurance commissioner may grant a temporary
28 exemption from this subsection, if, upon application by a health
29 carrier the commissioner finds that the clinical, financial, or
30 administrative capacity to serve existing enrollees will be impaired if
31 a health carrier is required to continue enrollment of additional
32 eligible individuals.

33 (2) Except as provided in subsection (5) of this section, all
34 health plans shall contain or incorporate by endorsement a guarantee of
35 the continuity of coverage of the plan. For the purposes of this
36 section, a plan is "renewed" when it is continued beyond the earliest
37 date upon which, at the carrier's sole option, the plan could have been

1 terminated for other than nonpayment of premium. In the case of group
2 plans, the carrier may consider the group's anniversary date as the
3 renewal date for purposes of complying with the provisions of this
4 section.

5 (3) The guarantee of continuity of coverage required in health
6 plans shall not prevent a carrier from canceling or nonrenewing a
7 health plan for:

8 (a) Nonpayment of premium;

9 (b) Violation of published policies of the carrier approved by the
10 insurance commissioner;

11 (c) Covered persons entitled to become eligible for medicare
12 benefits by reason of age who fail to apply for a medicare supplement
13 plan or medicare cost, risk, or other plan offered by the carrier
14 pursuant to federal laws and regulations;

15 (d) Covered persons who fail to pay any deductible or copayment
16 amount owed to the carrier and not the provider of health care
17 services;

18 (e) Covered persons committing fraudulent acts as to the carrier;

19 (f) Covered persons who materially breach the health plan; or

20 (g) Change or implementation of federal or state laws that no
21 longer permit the continued offering of such coverage.

22 (4) The provisions of this section do not apply in the following
23 cases:

24 (a) A carrier has zero enrollment on a product; or

25 (b) A carrier replaces a product and the replacement product is
26 provided to all covered persons within that class or line of business,
27 includes all of the services covered under the replaced product, and
28 does not significantly limit access to the kind of services covered
29 under the replaced product. The health plan may also allow
30 unrestricted conversion to a fully comparable product; or

31 (c) A carrier is withdrawing from a service area or from a segment
32 of its service area because the carrier has demonstrated to the
33 insurance commissioner that the carrier's clinical, financial, or
34 administrative capacity to serve enrollees would be exceeded.

35 (5) The provisions of this section do not apply to health plans
36 deemed by the insurance commissioner to be unique or limited or have a
37 short-term purpose, after a written request for such classification by
38 the carrier and subsequent written approval by the insurance
39 commissioner.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.43 RCW
2 to read as follows:

3 Every health plan delivered, issued for delivery, or renewed by a
4 health carrier on and after January 1, 1996, shall:

5 (1) Permit every category of health care provider to provide health
6 services or care for conditions included in the basic health plan
7 services to the extent that:

8 (a) The provision of such health services or care is within the
9 health care providers' permitted scope of practice; and

10 (b) The providers agree to abide by standards related to:

11 (i) Provision, utilization review, and cost containment of health
12 services;

13 (ii) Management and administrative procedures; and

14 (iii) Provision of cost-effective and clinically efficacious health
15 services.

16 (2) Annually report the names and addresses of all officers,
17 directors, or trustees of the health carrier during the preceding year,
18 and the amount of wages, expense reimbursements, or other payments to
19 such individuals.

20 NEW SECTION. **Sec. 9.** WASHINGTON HEALTH CARE POLICY BOARD. (1)
21 There is hereby created the Washington health care policy board. The
22 board shall consist of: (a) Five members appointed by the governor;
23 (b) two members of the senate appointed by the president of the senate,
24 one of whom shall be a member of the minority party; and (c) two
25 members of the house of representatives appointed by the speaker of the
26 house of representatives, one of whom shall be a member of the minority
27 party. One member of the board shall be designated by the governor as
28 chair and shall serve at the pleasure of the governor. All legislative
29 members shall be appointed before the close of each regular or special
30 session during an odd-numbered year.

31 (2) Of the members appointed by the governor, two shall be
32 appointed to two-year terms and two shall be appointed to three-year
33 terms. Thereafter, members shall be appointed to three-year terms.
34 The chair shall serve at the pleasure of the governor. Vacancies shall
35 be filled by appointment for the remainder of the unexpired term of the
36 position being vacated. A majority of the voting members shall
37 constitute a quorum.

1 (3) Members of the board appointed by the governor shall occupy
2 their positions on a full-time basis and are exempt from the provisions
3 of chapter 41.06 RCW. They shall be paid a salary to be fixed by the
4 governor in accordance with RCW 43.03.040.

5 NEW SECTION. **Sec. 10.** CHAIR--POWERS AND DUTIES. The chair shall
6 be the chief administrative officer and the appointing authority of the
7 board. The chair shall have the authority to employ personnel of the
8 board in accordance with chapter 41.06 RCW and prescribe their duties.
9 The chair may employ up to eight personnel exempt from the provisions
10 of chapter 41.06 RCW. The chair shall also have the following powers
11 and duties:

- 12 (1) Enter into contracts on behalf of the board;
13 (2) Accept and expend donations, grants, and other funds received
14 by the board;
15 (3) Appoint advisory committees and undertake studies, research,
16 and analysis necessary to support activities of the board.

17 NEW SECTION. **Sec. 11.** BOARD--POWERS AND DUTIES. The board shall
18 have the following powers and duties:

- 19 (1) Periodically make recommendations to the appropriate committees
20 of the legislature and the governor on issues including, but not
21 limited to the following:
22 (a) The scope, financing, and delivery of health care benefit plans
23 including access for both the insured and uninsured population;
24 (b) Long-term care services including the finance and delivery of
25 such services in conjunction with the basic health plan by 1999;
26 (c) The use of health care savings accounts including their impact
27 on the health of participants and the cost of health insurance;
28 (d) Rural health care needs;
29 (e) Whether Washington is experiencing an increase in immigration
30 as a result of health insurance reforms and the availability of
31 subsidized and unsubsidized health care benefits;
32 (f) The status of medical education and make recommendations
33 regarding steps possible to encourage adequate availability of health
34 care professionals to meet the needs of the state's populations with
35 particular attention to rural areas;
36 (g) The implementation of community rating and its impacts on the
37 marketplace including costs and access;

1 (h) The status of quality improvement programs in both the public
2 and private sectors;

3 (i) Models for billing and claims processing forms, ensuring that
4 these procedures minimize administrative burdens on health care
5 providers, facilities, carriers, and consumers. These standards shall
6 also apply to state-purchased health services where appropriate;

7 (j) Guidelines to health carriers for utilization management and
8 review, provider selection and termination policies, and coordination
9 of benefits and premiums; and

10 (k) Study the feasibility of including long-term care services in
11 a medicare supplemental insurance policy offered according to RCW
12 41.05.197;

13 (2) Review rules prepared by the insurance commissioner, health
14 care authority, department of social and health services, department of
15 labor and industries, and department of health, and make
16 recommendations where appropriate to facilitate consistency with the
17 goals of health reform;

18 (3) Make recommendations on a system for managing health care
19 services to children with special needs and report to the governor and
20 the legislature on their findings by January 1, 1997;

21 (4) Conduct a comparative analysis of individual and group
22 insurance markets addressing: Relative costs; utilization rates;
23 adverse selection; and specific impacts upon small businesses and
24 individuals. The analysis shall address, also, the necessity and
25 feasibility of establishing explicit related policies, to include, but
26 not be limited to, establishing the maximum allowable individual
27 premium rate as a percentage of the small group premium rate. The
28 board shall submit an interim report on its findings to the governor
29 and appropriate committees of the legislature by December 15, 1995, and
30 a final report on December 15, 1996;

31 (5) Develop sample enrollee satisfaction surveys that may be used
32 by health carriers.

33 NEW SECTION. **Sec. 12.** STUDY. In January 1999 the legislative
34 budget committee shall commence a study of the necessity of the
35 existence of the board and report its recommendations to the
36 appropriate committees of the legislature by December 1, 1999.

1 NEW SECTION. **Sec. 13.** A new section is added to chapter 48.20 RCW
2 to read as follows:

3 (1)(a) An insurer offering any health benefit plan to any
4 individual shall offer and actively market to all individuals a health
5 benefit plan providing benefits identical to the schedule of covered
6 health services that are required to be delivered to an individual
7 enrolled in the basic health plan. Nothing in this subsection shall
8 preclude an insurer from offering, or an individual from purchasing,
9 other health benefit plans that may have more or less comprehensive
10 benefits than the basic health plan, provided such plans are in
11 accordance with this chapter. An insurer offering a health benefit
12 plan that does not include benefits provided in the basic health plan
13 shall clearly disclose these differences to the individual in a
14 brochure approved by the commissioner.

15 (b) A health benefit plan shall provide coverage for hospital
16 expenses and services rendered by a physician licensed under chapter
17 18.57 or 18.71 RCW but is not subject to the requirements of RCW
18 48.20.390, 48.20.393, 48.20.395, 48.20.397, 48.20.410, 48.20.411,
19 48.20.412, 48.20.416, and 48.20.420 if the health benefit plan is the
20 mandatory offering under (a) of this subsection that provides benefits
21 identical to the basic health plan, to the extent these requirements
22 differ from the basic health plan.

23 (2) Premiums for health benefit plans for individuals shall be
24 calculated using the adjusted community rating method that spreads
25 financial risk across the carrier's entire individual product
26 population. All such rates shall conform to the following:

27 (a) The insurer shall develop its rates based on an adjusted
28 community rate and may only vary the adjusted community rate for:

- 29 (i) Geographic area;
- 30 (ii) Family size;
- 31 (iii) Age; and
- 32 (iv) Wellness activities.

33 (b) The adjustment for age in (a)(iii) of this subsection may not
34 use age brackets smaller than five-year increments which shall begin
35 with age twenty and end with age sixty-five. Individuals under the age
36 of twenty shall be treated as those age twenty.

37 (c) The insurer shall be permitted to develop separate rates for
38 individuals age sixty-five or older for coverage for which medicare is
39 the primary payer and coverage for which medicare is not the primary

1 payer. Both rates shall be subject to the requirements of this
2 subsection.

3 (d) The permitted rates for any age group shall be no more than
4 four hundred twenty-five percent of the lowest rate for all age groups
5 on January 1, 1996, four hundred percent on January 1, 1997, and three
6 hundred seventy-five percent on January 1, 2000, and thereafter.

7 (e) A discount for wellness activities shall be permitted to
8 reflect actuarially justified differences in utilization or cost
9 attributed to such programs not to exceed twenty percent.

10 (f) The rate charged for a health benefit plan offered under this
11 section may not be adjusted more frequently than annually except that
12 the premium may be changed to reflect:

13 (i) Changes to the family composition;

14 (ii) Changes to the health benefit plan requested by the
15 individual; or

16 (iii) Changes in government requirements affecting the health
17 benefit plan.

18 (g) For the purposes of this section, a health benefit plan that
19 contains a restricted network provision shall not be considered similar
20 coverage to a health benefit plan that does not contain such a
21 provision, provided that the restrictions of benefits to network
22 providers result in substantial differences in claims costs. This
23 subsection does not restrict or enhance the portability of benefits as
24 provided in section 5 of this act.

25 (3) Adjusted community rates established under this section shall
26 pool the medical experience of all individuals purchasing coverage, and
27 shall not be required to be pooled with the medical experience of
28 health benefit plans offered to small employers under RCW 48.21.045.

29 (4) As used in this section, "health benefit plan," "basic health
30 plan," "adjusted community rate," and "wellness activities" mean the
31 same as defined in section 4 of this act.

32 **Sec. 14.** RCW 48.21.045 and 1990 c 187 s 2 are each amended to read
33 as follows:

34 ~~((A basic group disability insurance policy may be offered to
35 employers of fewer than twenty-five employees. Such a basic group
36 disability insurance policy))~~ (1)(a) An insurer offering any health
37 benefit plan to a small employer shall offer and actively market to the
38 small employer a health benefit plan providing benefits identical to

1 the schedule of covered health services that are required to be
2 delivered to an individual enrolled in the basic health plan. Nothing
3 in this subsection shall preclude an insurer from offering, or a small
4 employer from purchasing, other health benefit plans that may have more
5 or less comprehensive benefits than the basic health plan, provided
6 such plans are in accordance with this chapter. An insurer offering a
7 health benefit plan that does not include benefits in the basic health
8 plan shall clearly disclose these differences to the small employer in
9 a brochure approved by the commissioner.

10 (b) A health benefit plan shall provide coverage for hospital
11 expenses and services rendered by a physician licensed under chapter
12 18.57 or 18.71 RCW but is not subject to the requirements of RCW
13 48.21.130, 48.21.140, 48.21.141, 48.21.142, 48.21.144, 48.21.146,
14 48.21.160 through 48.21.197, 48.21.200, 48.21.220, 48.21.225,
15 48.21.230, 48.21.235, 48.21.240, 48.21.244, 48.21.250, 48.21.300,
16 48.21.310, or 48.21.320 if: (i) The health benefit plan is the
17 mandatory offering under (a) of this subsection that provides benefits
18 identical to the basic health plan, to the extent these requirements
19 differ from the basic health plan; or (ii) the health benefit plan is
20 offered to employers with not more than twenty-five employees.

21 (2) Nothing in this section shall prohibit an insurer from
22 offering, or a purchaser from seeking, benefits in excess of the basic
23 ((coverage authorized herein)) health plan services. All forms,
24 policies, and contracts shall be submitted for approval to the
25 commissioner, and the rates of any plan offered under this section
26 shall be reasonable in relation to the benefits thereto.

27 (3) Premium rates for health benefit plans for small employers as
28 defined in this section shall be subject to the following provisions:

29 (a) The insurer shall develop its rates based on an adjusted
30 community rate and may only vary the adjusted community rate for:

- 31 (i) Geographic area;
- 32 (ii) Family size;
- 33 (iii) Age; and
- 34 (iv) Wellness activities.

35 (b) The adjustment for age in (a)(iii) of this subsection may not
36 use age brackets smaller than five-year increments, which shall begin
37 with age twenty and end with age sixty-five. Employees under the age
38 of twenty shall be treated as those age twenty.

1 (c) The insurer shall be permitted to develop separate rates for
2 individuals age sixty-five or older for coverage for which medicare is
3 the primary payer and coverage for which medicare is not the primary
4 payer. Both rates shall be subject to the requirements of this
5 subsection (3).

6 (d) The permitted rates for any age group shall be no more than
7 four hundred twenty-five percent of the lowest rate for all age groups
8 on January 1, 1996, four hundred percent on January 1, 1997, and three
9 hundred seventy-five percent on January 1, 2000, and thereafter.

10 (e) A discount for wellness activities shall be permitted to
11 reflect actuarially justified differences in utilization or cost
12 attributed to such programs not to exceed twenty percent.

13 (f) The rate charged for a health benefit plan offered under this
14 section may not be adjusted more frequently than annually except that
15 the premium may be changed to reflect:

16 (i) Changes to the enrollment of the small employer;

17 (ii) Changes to the family composition of the employee;

18 (iii) Changes to the health benefit plan requested by the small
19 employer; or

20 (iv) Changes in government requirements affecting the health
21 benefit plan.

22 (g) Rating factors shall produce premiums for identical groups that
23 differ only by the amounts attributable to plan design, with the
24 exception of discounts for health improvement programs.

25 (h) For the purposes of this section, a health benefit plan that
26 contains a restricted network provision shall not be considered similar
27 coverage to a health benefit plan that does not contain such a
28 provision, provided that the restrictions of benefits to network
29 providers result in substantial differences in claims costs. This
30 subsection does not restrict or enhance the portability of benefits as
31 provided in section 5 of this act.

32 (i) Adjusted community rates established under this section shall
33 pool the medical experience of all small groups purchasing coverage.

34 (4) The ((policy)) health benefit plans authorized by this section
35 that are lower than the required offering shall not supplant or
36 supersede any existing policy for the benefit of employees in this
37 state. Nothing in this section shall restrict the right of employees
38 to collectively bargain for insurance providing benefits in excess of
39 those provided herein.

1 (5)(a) Except as provided in this subsection, requirements used by
2 an insurer in determining whether to provide coverage to a small
3 employer shall be applied uniformly among all small employers applying
4 for coverage or receiving coverage from the carrier.

5 (b) An insurer shall not require a minimum participation level
6 greater than:

7 (i) One hundred percent of eligible employees working for groups
8 with three or less employees; and

9 (ii) Seventy-five percent of eligible employees working for groups
10 with more than three employees.

11 (c) In applying minimum participation requirements with respect to
12 a small employer, a small employer shall not consider employees or
13 dependents who have similar existing coverage in determining whether
14 the applicable percentage of participation is met.

15 (d) An insurer may not increase any requirement for minimum
16 employee participation or modify any requirement for minimum employer
17 contribution applicable to a small employer at any time after the small
18 employer has been accepted for coverage.

19 (6) An insurer must offer coverage to all eligible employees of a
20 small employer and their dependents. An insurer may not offer coverage
21 to only certain individuals or dependents in a small employer group or
22 to only part of the group. An insurer may not modify a health plan
23 with respect to a small employer or any eligible employee or dependent,
24 through riders, endorsements or otherwise, to restrict or exclude
25 coverage or benefits for specific diseases, medical conditions, or
26 services otherwise covered by the plan.

27 (7) As used in this section, "health benefit plan," "small
28 employer," "basic health plan," "adjusted community rate," and
29 "wellness activities" mean the same as defined in section 4 of this
30 act.

31 **NEW SECTION. Sec. 15.** A new section is added to chapter 48.44 RCW
32 to read as follows:

33 (1)(a) A health care service contractor offering any health benefit
34 plan to any individual shall offer and actively market to all
35 individuals a health benefit plan providing benefits identical to the
36 schedule of covered health services that are required to be delivered
37 to an individual enrolled in the basic health plan. Nothing in this
38 subsection shall preclude a contractor from offering, or an individual

1 from purchasing, other health benefit plans that may have more or less
2 comprehensive benefits than the basic health plan, provided such plans
3 are in accordance with this chapter. A contractor offering a health
4 benefit plan that does not include benefits provided in the basic
5 health plan shall clearly disclose these differences to the individual
6 in a brochure approved by the commissioner.

7 (b) A health benefit plan shall provide coverage for hospital
8 expenses and services rendered by a physician licensed under chapter
9 18.57 or 18.71 RCW but is not subject to the requirements of RCW
10 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310,
11 48.44.320, 48.44.325, 48.44.330, 48.44.335, 48.44.340, 48.44.344,
12 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460 if the health
13 benefit plan is the mandatory offering under (a) of this subsection
14 that provides benefits identical to the basic health plan, to the
15 extent these requirements differ from the basic health plan.

16 (2) Premium rates for health benefit plans for individuals shall be
17 subject to the following provisions:

18 (a) The health care service contractor shall develop its rates
19 based on an adjusted community rate and may only vary the adjusted
20 community rate for:

- 21 (i) Geographic area;
- 22 (ii) Family size;
- 23 (iii) Age; and
- 24 (iv) Wellness activities.

25 (b) The adjustment for age in (a)(iii) of this subsection may not
26 use age brackets smaller than five-year increments which shall begin
27 with age twenty and end with age sixty-five. Individuals under the age
28 of twenty shall be treated as those age twenty.

29 (c) The health care service contractor shall be permitted to
30 develop separate rates for individuals age sixty-five or older for
31 coverage for which medicare is the primary payer and coverage for which
32 medicare is not the primary payer. Both rates shall be subject to the
33 requirements of this subsection.

34 (d) The permitted rates for any age group shall be no more than
35 four hundred twenty-five percent of the lowest rate for all age groups
36 on January 1, 1996, four hundred percent on January 1, 1997, and three
37 hundred seventy-five percent on January 1, 2000, and thereafter.

1 (e) A discount for wellness activities shall be permitted to
2 reflect actuarially justified differences in utilization or cost
3 attributed to such programs not to exceed twenty percent.

4 (f) The rate charged for a health benefit plan offered under this
5 section may not be adjusted more frequently than annually except that
6 the premium may be changed to reflect:

7 (i) Changes to the family composition;

8 (ii) Changes to the health benefit plan requested by the
9 individual; or

10 (iii) Changes in government requirements affecting the health
11 benefit plan.

12 (g) For the purposes of this section, a health benefit plan that
13 contains a restricted network provision shall not be considered similar
14 coverage to a health benefit plan that does not contain such a
15 provision, provided that the restrictions of benefits to network
16 providers result in substantial differences in claims costs. This
17 subsection does not restrict or enhance the portability of benefits as
18 provided in section 5 of this act.

19 (3) Adjusted community rates established under this section shall
20 pool the medical experience of all individuals purchasing coverage, and
21 shall not be required to be pooled with the medical experience of
22 health benefit plans offered to small employers under RCW 48.44.023.

23 (4) As used in this section and RCW 48.44.023 "health benefit
24 plan," "small employer," "basic health plan," "adjusted community
25 rates," and "wellness activities" mean the same as defined in section
26 4 of this act.

27 **Sec. 16.** RCW 48.44.023 and 1990 c 187 s 3 are each amended to read
28 as follows:

29 ~~((A basic health care service contract may be offered to employers
30 of fewer than twenty five employees. Such a basic health care service
31 contract))~~ (1)(a) A health care services contractor offering any health
32 benefit plan to a small employer shall offer and actively market to the
33 small employer a health benefit plan providing benefits identical to
34 the schedule of covered health services that are required to be
35 delivered to an individual enrolled in the basic health plan. Nothing
36 in this subsection shall preclude a contractor from offering, or a
37 small employer from purchasing, other health benefit plans that may
38 have more or less comprehensive benefits than the basic health plan,

1 provided such plans are in accordance with this chapter. A contractor
2 offering a health benefit plan that does not include benefits in the
3 basic health plan shall clearly disclose these differences to the small
4 employer in a brochure approved by the commissioner.

5 (b) A health benefit plan shall provide coverage for hospital
6 expenses and services rendered by a physician licensed under chapter
7 18.57 or 18.71 RCW but is not subject to the requirements of RCW
8 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310,
9 48.44.320, 48.44.325, 48.44.330, 48.44.335, 48.44.340, 48.44.344,
10 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460 if (i) The
11 health benefit plan is the mandatory offering under (a) of this
12 subsection that provides benefits identical to the basic health plan,
13 to the extent these requirements differ from the basic health plan; or
14 (ii) the health benefit plan is offered to employers with not more than
15 twenty-five employees.

16 (2) Nothing in this section shall prohibit ((an insurer)) a health
17 care service contractor from offering, or a purchaser from seeking,
18 benefits in excess of the basic ((coverage authorized herein)) health
19 plan services. All forms, policies, and contracts shall be submitted
20 for approval to the commissioner, and the rates of any plan offered
21 under this section shall be reasonable in relation to the benefits
22 thereto.

23 (3) Premium rates for health benefit plans for small employers as
24 defined in this section shall be subject to the following provisions:

25 (a) The contractor shall develop its rates based on an adjusted
26 community rate and may only vary the adjusted community rate for:

- 27 (i) Geographic area;
- 28 (ii) Family size;
- 29 (iii) Age; and
- 30 (iv) Wellness activities.

31 (b) The adjustment for age in (a)(iii) of this subsection may not
32 use age brackets smaller than five-year increments, which shall begin
33 with age twenty and end with age sixty-five. Employees under the age
34 of twenty shall be treated as those age twenty.

35 (c) The contractor shall be permitted to develop separate rates for
36 individuals age sixty-five or older for coverage for which medicare is
37 the primary payer and coverage for which medicare is not the primary
38 payer. Both rates shall be subject to the requirements of this
39 subsection (3).

1 (d) The permitted rates for any age group shall be no more than
2 four hundred twenty-five percent of the lowest rate for all age groups
3 on January 1, 1996, four hundred percent on January 1, 1997, and three
4 hundred seventy-five percent on January 1, 2000, and thereafter.

5 (e) A discount for wellness activities shall be permitted to
6 reflect actuarially justified differences in utilization or cost
7 attributed to such programs not to exceed twenty percent.

8 (f) The rate charged for a health benefit plan offered under this
9 section may not be adjusted more frequently than annually except that
10 the premium may be changed to reflect:

11 (i) Changes to the enrollment of the small employer;

12 (ii) Changes to the family composition of the employee;

13 (iii) Changes to the health benefit plan requested by the small
14 employer; or

15 (iv) Changes in government requirements affecting the health
16 benefit plan.

17 (g) Rating factors shall produce premiums for identical groups that
18 differ only by the amounts attributable to plan design, with the
19 exception of discounts for health improvement programs.

20 (h) For the purposes of this section, a health benefit plan that
21 contains a restricted network provision shall not be considered similar
22 coverage to a health benefit plan that does not contain such a
23 provision, provided that the restrictions of benefits to network
24 providers result in substantial differences in claims costs. This
25 subsection does not restrict or enhance the portability of benefits as
26 provided in section 5 of this act.

27 (i) Adjusted community rates established under this section shall
28 pool the medical experience of all groups purchasing coverage.

29 (4) The ((policy)) health benefit plans authorized by this section
30 that are lower than the required offering shall not supplant or
31 supersede any existing policy for the benefit of employees in this
32 state. Nothing in this section shall restrict the right of employees
33 to collectively bargain for insurance providing benefits in excess of
34 those provided herein.

35 (5)(a) Except as provided in this subsection, requirements used by
36 a contractor in determining whether to provide coverage to a small
37 employer shall be applied uniformly among all small employers applying
38 for coverage or receiving coverage from the carrier.

1 (b) A contractor shall not require a minimum participation level
2 greater than:

3 (i) One hundred percent of eligible employees working for groups
4 with three or less employees; and

5 (ii) Seventy-five percent of eligible employees working for groups
6 with more than three employees.

7 (c) In applying minimum participation requirements with respect to
8 a small employer, a small employer shall not consider employees or
9 dependents who have similar existing coverage in determining whether
10 the applicable percentage of participation is met.

11 (d) A contractor may not increase any requirement for minimum
12 employee participation or modify any requirement for minimum employer
13 contribution applicable to a small employer at any time after the small
14 employer has been accepted for coverage.

15 (6) A contractor must offer coverage to all eligible employees of
16 a small employer and their dependents. A contractor may not offer
17 coverage to only certain individuals or dependents in a small employer
18 group or to only part of the group. A contractor may not modify a
19 health plan with respect to a small employer or any eligible employee
20 or dependent, through riders, endorsements or otherwise, to restrict or
21 exclude coverage or benefits for specific diseases, medical conditions,
22 or services otherwise covered by the plan.

23 NEW SECTION. Sec. 17. A new section is added to chapter 48.46 RCW
24 to read as follows:

25 (1)(a) A health maintenance organization offering any health
26 benefit plan to any individual shall offer and actively market to all
27 individuals a health benefit plan providing benefits identical to the
28 schedule of covered health services that are required to be delivered
29 to an individual enrolled in the basic health plan. Nothing in this
30 subsection shall preclude a health maintenance organization from
31 offering, or an individual from purchasing, other health benefit plans
32 that may have more or less comprehensive benefits than the basic health
33 plan, provided such plans are in accordance with this chapter. A
34 health maintenance organization offering a health benefit plan that
35 does not include benefits provided in the basic health plan shall
36 clearly disclose these differences to the individual in a brochure
37 approved by the commissioner.

1 (b) A health benefit plan shall provide coverage for hospital
2 expenses and services rendered by a physician licensed under chapter
3 18.57 or 18.71 RCW but is not subject to the requirements of RCW
4 48.46.275, 48.26.280, 48.46.285, 48.46.290, 48.46.350, 48.46.355,
5 48.46.375, 48.46.440, 48.46.480, 48.46.510, 48.46.520, and 48.46.530 if
6 the health benefit plan is the mandatory offering under (a) of this
7 subsection that provides benefits identical to the basic health plan,
8 to the extent these requirements differ from the basic health plan.

9 (2) Premium rates for health benefit plans for individuals shall be
10 subject to the following provisions:

11 (a) The health maintenance organization shall develop its rates
12 based on an adjusted community rate and may only vary the adjusted
13 community rate for:

- 14 (i) Geographic area;
- 15 (ii) Family size;
- 16 (iii) Age; and
- 17 (iv) Wellness activities.

18 (b) The adjustment for age in (a)(iii) of this subsection may not
19 use age brackets smaller than five-year increments which shall begin
20 with age twenty and end with age sixty-five. Individuals under the age
21 of twenty shall be treated as those age twenty.

22 (c) The health maintenance organization shall be permitted to
23 develop separate rates for individuals age sixty-five or older for
24 coverage for which medicare is the primary payer and coverage for which
25 medicare is not the primary payer. Both rates shall be subject to the
26 requirements of this subsection.

27 (d) The permitted rates for any age group shall be no more than
28 four hundred twenty-five percent of the lowest rate for all age groups
29 on January 1, 1996, four hundred percent on January 1, 1997, and three
30 hundred seventy-five percent on January 1, 2000, and thereafter.

31 (e) A discount for wellness activities shall be permitted to
32 reflect actuarially justified differences in utilization or cost
33 attributed to such programs not to exceed twenty percent.

34 (f) The rate charged for a health benefit plan offered under this
35 section may not be adjusted more frequently than annually except that
36 the premium may be changed to reflect:

- 37 (i) Changes to the family composition;
- 38 (ii) Changes to the health benefit plan requested by the
39 individual; or

1 (iii) Changes in government requirements affecting the health
2 benefit plan.

3 (g) For the purposes of this section, a health benefit plan that
4 contains a restricted network provision shall not be considered similar
5 coverage to a health benefit plan that does not contain such a
6 provision, provided that the restrictions of benefits to network
7 providers result in substantial differences in claims costs. This
8 subsection does not restrict or enhance the portability of benefits as
9 provided in section 5 of this act.

10 (3) Adjusted community rates established under this section shall
11 pool the medical experience of all individuals purchasing coverage, and
12 shall not be required to be pooled with the medical experience of
13 health benefit plans offered to small employers under RCW 48.46.066.

14 (4) As used in this section and RCW 48.46.066, "health benefit
15 plan," "basic health plan," "adjusted community rate," "small
16 employer," and "wellness activities" mean the same as defined in
17 section 4 of this act.

18 **Sec. 18.** RCW 48.46.066 and 1990 c 187 s 4 are each amended to read
19 as follows:

20 ~~((A basic health maintenance agreement may be offered to employers
21 of fewer than twenty five employees. Such a basic health maintenance
22 agreement))~~ (1)(a) A health maintenance organization offering any
23 health benefit plan to a small employer shall offer and actively market
24 to the small employer a health benefit plan providing benefits
25 identical to the schedule of covered health services that are required
26 to be delivered to an individual enrolled in the basic health plan.
27 Nothing in this subsection shall preclude a health maintenance
28 organization from offering, or a small employer from purchasing, other
29 health benefit plans that may have more or less comprehensive benefits
30 than the basic health plan, provided such plans are in accordance with
31 this chapter. A health maintenance organization offering a health
32 benefit plan that does not include benefits in the basic health plan
33 shall clearly disclose these differences to the small employer in a
34 brochure approved by the commissioner.

35 (b) A health benefit plan shall provide coverage for hospital
36 expenses and services rendered by a physician licensed under chapter
37 18.57 or 18.71 RCW but is not subject to the requirements of RCW
38 48.46.275, 48.46.280, 48.46.285, 48.46.290, 48.46.350, 48.46.355,

1 48.46.375, 48.46.440, 48.46.480, 48.46.510, 48.46.520, and 48.46.530
2 if: (i) The health benefit plan is the mandatory offering under (a) of
3 this subsection that provides benefits identical to the basic health
4 plan, to the extent these requirements differ from the basic health
5 plan; or (ii) the health benefit plan is offered to employers with not
6 more than twenty-five employees.

7 (2) Nothing in this section shall prohibit ((an insurer)) a health
8 maintenance organization from offering, or a purchaser from seeking,
9 benefits in excess of the basic ((coverage authorized herein)) health
10 plan services. All forms, policies, and contracts shall be submitted
11 for approval to the commissioner, and the rates of any plan offered
12 under this section shall be reasonable in relation to the benefits
13 thereto.

14 (3) Premium rates for health benefit plans for small employers as
15 defined in this section shall be subject to the following provisions:

16 (a) The health maintenance organization shall develop its rates
17 based on an adjusted community rate and may only vary the adjusted
18 community rate for:

- 19 (i) Geographic area;
- 20 (ii) Family size;
- 21 (iii) Age; and
- 22 (iv) Wellness activities.

23 (b) The adjustment for age in (a)(iii) of this subsection may not
24 use age brackets smaller than five-year increments, which shall begin
25 with age twenty and end with age sixty-five. Employees under the age
26 of twenty shall be treated as those age twenty.

27 (c) The health maintenance organization shall be permitted to
28 develop separate rates for individuals age sixty-five or older for
29 coverage for which medicare is the primary payer and coverage for which
30 medicare is not the primary payer. Both rates shall be subject to the
31 requirements of this subsection (3).

32 (d) The permitted rates for any age group shall be no more than
33 four hundred twenty-five percent of the lowest rate for all age groups
34 on January 1, 1996, four hundred percent on January 1, 1997, and three
35 hundred seventy-five percent on January 1, 2000, and thereafter.

36 (e) A discount for wellness activities shall be permitted to
37 reflect actuarially justified differences in utilization or cost
38 attributed to such programs not to exceed twenty percent.

1 (f) The rate charged for a health benefit plan offered under this
2 section may not be adjusted more frequently than annually except that
3 the premium may be changed to reflect:

4 (i) Changes to the enrollment of the small employer;

5 (ii) Changes to the family composition of the employee;

6 (iii) Changes to the health benefit plan requested by the small
7 employer; or

8 (iv) Changes in government requirements affecting the health
9 benefit plan.

10 (g) Rating factors shall produce premiums for identical groups that
11 differ only by the amounts attributable to plan design, with the
12 exception of discounts for health improvement programs.

13 (h) For the purposes of this section, a health benefit plan that
14 contains a restricted network provision shall not be considered similar
15 coverage to a health benefit plan that does not contain such a
16 provision, provided that the restrictions of benefits to network
17 providers result in substantial differences in claims costs. This
18 subsection does not restrict or enhance the portability of benefits as
19 provided in section 5 of this act.

20 (i) Adjusted community rates established under this section shall
21 pool the medical experience of all groups purchasing coverage.

22 (4) The ((policy)) health benefit plans authorized by this section
23 that are lower than the required offering shall not supplant or
24 supersede any existing policy for the benefit of employees in this
25 state. Nothing in this section shall restrict the right of employees
26 to collectively bargain for insurance providing benefits in excess of
27 those provided herein.

28 (5)(a) Except as provided in this subsection, requirements used by
29 a health maintenance organization in determining whether to provide
30 coverage to a small employer shall be applied uniformly among all small
31 employers applying for coverage or receiving coverage from the carrier.

32 (b) A health maintenance organization shall not require a minimum
33 participation level greater than:

34 (i) One hundred percent of eligible employees working for groups
35 with three or less employees; and

36 (ii) Seventy-five percent of eligible employees working for groups
37 with more than three employees.

38 (c) In applying minimum participation requirements with respect to
39 a small employer, a small employer shall not consider employees or

1 dependents who have similar existing coverage in determining whether
2 the applicable percentage of participation is met.

3 (d) A health maintenance organization may not increase any
4 requirement for minimum employee participation or modify any
5 requirement for minimum employer contribution applicable to a small
6 employer at any time after the small employer has been accepted for
7 coverage.

8 (6) A health maintenance organization must offer coverage to all
9 eligible employees of a small employer and their dependents. A health
10 maintenance organization may not offer coverage to only certain
11 individuals or dependents in a small employer group or to only part of
12 the group. A health maintenance organization may not modify a health
13 plan with respect to a small employer or any eligible employee or
14 dependent, through riders, endorsements or otherwise, to restrict or
15 exclude coverage or benefits for specific diseases, medical conditions,
16 or services otherwise covered by the plan.

17 NEW SECTION. Sec. 19. A new section is added to chapter 43.70 RCW
18 to read as follows:

19 (1) The identity of a whistleblower who complains, in good faith,
20 to the department of health about the improper quality of care by a
21 health care provider, or in a health care facility, as defined in RCW
22 43.72.010, shall remain confidential. The provisions of RCW 4.24.500
23 through 4.24.520, providing certain protections to persons who
24 communicate to government agencies, shall apply to complaints filed
25 under this section. The identity of the whistleblower shall remain
26 confidential unless the department determines that the complaint was
27 not made in good faith. An employee who is a whistleblower, as defined
28 in this section, and who as a result of being a whistleblower has been
29 subjected to workplace reprisal or retaliatory action has the remedies
30 provided under chapter 49.60 RCW.

31 (2)(a) "Improper quality of care" means any practice, procedure,
32 action, or failure to act that violates any state law or rule of the
33 applicable state health licensing authority under Title 18 or chapters
34 70.41, 70.96A, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and
35 enforced by the department of health. Each health disciplinary
36 authority as defined in RCW 18.130.040 may, with consultation and
37 interdisciplinary coordination provided by the state department of
38 health, adopt rules defining accepted standards of practice for their

1 profession that shall further define improper quality of care.
2 Improper quality of care shall not include good faith personnel actions
3 related to employee performance or actions taken according to
4 established terms and conditions of employment.

5 (b) "Reprisal or retaliatory action" means but is not limited to:
6 Denial of adequate staff to perform duties; frequent staff changes;
7 frequent and undesirable office changes; refusal to assign meaningful
8 work; unwarranted and unsubstantiated report of misconduct pursuant to
9 Title 18 RCW; letters of reprimand or unsatisfactory performance
10 evaluations; demotion; reduction in pay; denial of promotion;
11 suspension; dismissal; denial of employment; and a supervisor or
12 superior encouraging coworkers to behave in a hostile manner toward the
13 whistleblower.

14 (c) "Whistleblower" means a consumer, employee, or health care
15 professional who in good faith reports alleged quality of care concerns
16 to the department of health.

17 (3) Nothing in this section prohibits a health care facility from
18 making any decision exercising its authority to terminate, suspend, or
19 discipline an employee who engages in workplace reprisal or retaliatory
20 action against a whistleblower.

21 (4) The department shall adopt rules to implement procedures for
22 filing, investigation, and resolution of whistleblower complaints that
23 are integrated with complaint procedures under Title 18 RCW for health
24 professionals or health care facilities.

25 NEW SECTION. **Sec. 20.** A new section is added to chapter 48.43 RCW
26 to read as follows:

27 Each health carrier as defined under section 4 of this act shall
28 file with the commissioner its procedures for review and adjudication
29 of complaints initiated by covered persons or health care providers.
30 Procedures filed under this section shall provide a fair review for
31 consideration of complaints. Every health carrier shall provide
32 reasonable means whereby any person aggrieved by actions of the health
33 carrier may be heard in person or by their authorized representative on
34 their written request for review. If the health carrier fails to grant
35 or reject such request within thirty days after it is made, the
36 complaining person may proceed as if the complaint had been rejected.
37 A complaint that has been rejected by the health carrier may be
38 submitted to nonbinding mediation. Mediation shall be conducted

1 pursuant to mediation rules similar to those of the American
2 arbitration association, the center for public resources, the judicial
3 arbitration and mediation service, RCW 7.70.100, or any other rules of
4 mediation agreed to by the parties.

5 NEW SECTION. **Sec. 21.** The health care authority, the office of
6 financial management, and the department of social and health services
7 shall together monitor the enrollee level in the basic health plan and
8 the medicaid caseload of children funded from the health services
9 account. The office of financial management shall adjust the funding
10 levels by interagency reimbursement of funds between the basic health
11 plan and medicaid and adjust the funding levels between the health care
12 authority and the medical assistance administration of the department
13 of social and health services to maximize combined enrollment.

14 NEW SECTION. **Sec. 22.** A new section is added to chapter 48.21 RCW
15 to read as follows:

16 (1) No insurer shall offer any health benefit plan to any small
17 employer without complying with the provisions of RCW 48.21.045(5).

18 (2) Employers purchasing health plans provided through associations
19 or through member-governed groups formed specifically for the purpose
20 of purchasing health care shall not be considered small employers and
21 such plans shall not be subject to the provisions of RCW 48.21.045(5).

22 (3) For purposes of this section, "health benefit plan," "health
23 plan," and "small employer" mean the same as defined in section 4 of
24 this act.

25 NEW SECTION. **Sec. 23.** A new section is added to chapter 48.44 RCW
26 to read as follows:

27 (1) No health care service contractor shall offer any health
28 benefit plan to any small employer without complying with the
29 provisions of RCW 48.44.023(5).

30 (2) Employers purchasing health plans provided through associations
31 or through member-governed groups formed specifically for the purpose
32 of purchasing health care shall not be considered small employers and
33 such plans shall not be subject to the provisions of RCW 48.44.023(5).

34 (3) For purposes of this section, "health benefit plan," "health
35 plan," and "small employer" mean the same as defined in section 4 of
36 this act.

1 NEW SECTION. **Sec. 24.** A new section is added to chapter 48.46 RCW
2 to read as follows:

3 (1) No health maintenance organization shall offer any health
4 benefit plan to any small employer without complying with the
5 provisions of RCW 48.46.066(5).

6 (2) Employers purchasing health plans provided through associations
7 or through member-governed groups formed specifically for the purpose
8 of purchasing health care shall not be considered small employers and
9 such plans shall not be subject to the provisions of RCW 48.46.066(5).

10 (3) For purposes of this section, "health benefit plan," "health
11 plan," and "small employer" mean the same as defined in section 4 of
12 this act.

13 NEW SECTION. **Sec. 25.** (1) The legislature recognizes that every
14 individual possesses a fundamental right to exercise their religious
15 beliefs and conscience. The legislature further recognizes that in
16 developing public policy, conflicting religious and moral beliefs must
17 be respected. Therefore, while recognizing the right of conscientious
18 objection to participating in specific health services, the state shall
19 also recognize the right of individuals enrolled with plans containing
20 the basic health plan services to receive the full range of services
21 covered under the plan.

22 (2)(a) No individual health care provider, religiously sponsored
23 health carrier, or health care facility may be required by law or
24 contract in any circumstances to participate in the provision of or
25 payment for a specific service if they object to so doing for reason of
26 conscience or religion. No person may be discriminated against in
27 employment or professional privileges because of such objection.

28 (b) The provisions of this section are not intended to result in an
29 enrollee being denied timely access to any service included in the
30 basic health plan services. Each health carrier shall:

31 (i) Provide written notice to enrollees, upon enrollment with the
32 plan, listing services that the carrier refuses to cover for reason of
33 conscience or religion;

34 (ii) Provide written information describing how an enrollee may
35 directly access services in an expeditious manner; and

36 (iii) Ensure that enrollees refused services under this section
37 have prompt access to the information developed pursuant to (b)(ii) of
38 this subsection.

1 (c) The insurance commissioner shall establish by rule a mechanism
2 or mechanisms to recognize the right to exercise conscience while
3 ensuring enrollees timely access to services and to assure prompt
4 payment to service providers.

5 (3)(a) No individual or organization with a religious or moral
6 tenet opposed to a specific service may be required to purchase
7 coverage for that service or services if they object to doing so for
8 reason of conscience or religion.

9 (b) The provisions of this section shall not result in an enrollee
10 being denied coverage of, and timely access to, any service or services
11 excluded from their benefits package as a result of their employer's or
12 another individual's exercise of the conscience clause in (a) of this
13 subsection.

14 (c) The insurance commissioner shall define by rule the process
15 through which health carriers may offer the basic health plan services
16 to individuals and organizations identified in (a) and (b) of this
17 subsection in accordance with the provisions of subsection (2)(c) of
18 this section.

19 (4) Nothing in this section requires a health carrier, health care
20 facility, or health care provider to provide any health care services
21 without appropriate payment of premium or fee.

22 NEW SECTION. **Sec. 26.** The department of social and health
23 services, in consultation with the health care authority, the office of
24 financial management, and other appropriate state agencies, shall seek
25 necessary federal waivers and state law changes to the medical
26 assistance program of the department to achieve greater coordination in
27 financing, purchasing, and delivering health services to low-income
28 residents of Washington state in a cost-effective manner, and to expand
29 access to care for these low-income residents. Such waivers shall
30 include any waiver needed to require that point-of-service cost-
31 sharing, based on recipient household income, be applied to medical
32 assistance recipients. In negotiating the waiver, consideration shall
33 be given to the degree to which benefits in addition to the minimum
34 list of services should be offered to medical assistance recipients.

35 NEW SECTION. **Sec. 27.** REPEALERS. The following acts or parts of
36 acts are each repealed:

37 (1) RCW 18.130.320 and 1993 c 492 s 408;

1 (2) RCW 18.130.330 and 1994 c 102 s 1 & 1993 c 492 s 412;
2 (3) RCW 43.72.005 and 1993 c 492 s 401;
3 (4) RCW 43.72.010 and 1994 c 4 s 1, 1993 c 494 s 1, & 1993 c 492 s
4 402;
5 (5) RCW 43.72.020 and 1994 c 154 s 311 & 1993 c 492 s 403;
6 (6) RCW 43.72.030 and 1993 c 492 s 405;
7 (7) RCW 43.72.040 and 1994 c 4 s 3, 1993 c 494 s 2, & 1993 c 492 s
8 406;
9 (8) RCW 43.72.050 and 1993 c 492 s 407;
10 (9) RCW 43.72.060 and 1994 c 4 s 2 & 1993 c 492 s 404;
11 (10) RCW 43.72.070 and 1993 c 492 s 409;
12 (11) RCW 43.72.080 and 1993 c 492 s 425;
13 (12) RCW 43.72.090 and 1993 c 492 s 427;
14 (13) RCW 43.72.100 and 1993 c 492 s 428;
15 (14) RCW 43.72.110 and 1993 c 492 s 429;
16 (15) RCW 43.72.120 and 1993 c 492 s 430;
17 (16) RCW 43.72.130 and 1993 c 492 s 449;
18 (17) RCW 43.72.140 and 1993 c 492 s 450;
19 (18) RCW 43.72.150 and 1993 c 492 s 451;
20 (19) RCW 43.72.160 and 1993 c 492 s 452;
21 (20) RCW 43.72.170 and 1993 c 492 s 453;
22 (21) RCW 43.72.180 and 1993 c 492 s 454;
23 (22) RCW 43.72.190 and 1993 c 492 s 455;
24 (23) RCW 43.72.210 and 1993 c 492 s 463;
25 (24) RCW 43.72.220 and 1993 c 494 s 3 & 1993 c 492 s 464;
26 (25) RCW 43.72.225 and 1994 c 4 s 4;
27 (26) RCW 43.72.230 and 1993 c 492 s 465;
28 (27) RCW 43.72.240 and 1993 c 494 s 4 & 1993 c 492 s 466;
29 (28) RCW 43.72.300 and 1993 c 492 s 447;
30 (29) RCW 43.72.310 and 1993 c 492 s 448;
31 (30) RCW 43.72.800 and 1993 c 492 s 457;
32 (31) RCW 43.72.810 and 1993 c 492 s 474;
33 (32) RCW 43.72.820 and 1993 c 492 s 475;
34 (33) RCW 43.72.830 and 1993 c 492 s 476;
35 (34) RCW 43.72.840 and 1993 c 492 s 478;
36 (35) RCW 43.72.870 and 1993 c 494 s 5;
37 (36) RCW 48.01.200 and 1993 c 492 s 294;
38 (37) RCW 48.43.010 and 1993 c 492 s 432;
39 (38) RCW 48.43.020 and 1993 c 492 s 433;

- 1 (39) RCW 48.43.030 and 1993 c 492 s 434;
2 (40) RCW 48.43.040 and 1993 c 492 s 435;
3 (41) RCW 48.43.050 and 1993 c 492 s 436;
4 (42) RCW 48.43.060 and 1993 c 492 s 437;
5 (43) RCW 48.43.070 and 1993 c 492 s 438;
6 (44) RCW 48.43.080 and 1993 c 492 s 439;
7 (45) RCW 48.43.090 and 1993 c 492 s 440;
8 (46) RCW 48.43.100 and 1993 c 492 s 441;
9 (47) RCW 48.43.110 and 1993 c 492 s 442;
10 (48) RCW 48.43.120 and 1993 c 492 s 443;
11 (49) RCW 48.43.130 and 1993 c 492 s 444;
12 (50) RCW 48.43.140 and 1993 c 492 s 445;
13 (51) RCW 48.43.150 and 1993 c 492 s 446;
14 (52) RCW 48.43.160 and 1993 c 492 s 426;
15 (53) RCW 48.43.170 and 1993 c 492 s 431;
16 (54) RCW 48.01.210 and 1993 c 462 s 51;
17 (55) RCW 48.20.540 and 1993 c 492 s 283;
18 (56) RCW 48.21.340 and 1993 c 492 s 284;
19 (57) RCW 48.44.480 and 1993 c 492 s 285;
20 (58) RCW 48.46.550 and 1993 c 492 s 286;
21 (59) RCW 70.170.100 and 1993 c 492 s 259, 1990 c 269 s 12, & 1989
22 1st ex.s. c 9 s 510;
23 (60) RCW 70.170.110 and 1993 c 492 s 260 & 1989 1st ex.s. c 9 s
24 511;
25 (61) RCW 70.170.120 and 1993 c 492 s 261;
26 (62) RCW 70.170.130 and 1993 c 492 s 262;
27 (63) RCW 70.170.140 and 1993 c 492 s 263;
28 (64) RCW 48.44.490 and 1993 c 492 s 288;
29 (65) RCW 48.46.560 and 1993 c 492 s 289; and
30 (66) RCW 43.72.200 and 1993 c 492 s 456.

31 NEW SECTION. **Sec. 28.** CODIFICATION DIRECTION. (1) Sections 2 and
32 3 of this act shall constitute a new chapter in Title 48 RCW.

33 (2) Sections 4 through 7 and 25 of this act are each added to
34 chapter 48.43 RCW.

35 (3) Sections 9 through 12 of this act shall constitute a new
36 chapter in Title 43 RCW.

1 NEW SECTION. **Sec. 29.** CAPTIONS NOT LAW. Captions as used in this
2 act constitute no part of the law.

3 NEW SECTION. **Sec. 30.** EFFECTIVE DATE. This act is necessary for
4 the immediate preservation of the public peace, health, or safety, or
5 support of the state government and its existing public institutions,
6 and shall take effect July 1, 1995, except that sections 13 through 18
7 of this act shall take effect January 1, 1996.

8 NEW SECTION. **Sec. 31.** SAVINGS CLAUSE. This act shall not be
9 construed as affecting any existing right acquired or liability or
10 obligation incurred under the sections amended or repealed in this act
11 or under any rule or order adopted under those sections, nor as
12 affecting any proceeding instituted under those sections.

13 NEW SECTION. **Sec. 32.** SEVERABILITY CLAUSE. If any provision of
14 this act or its application to any person or circumstance is held
15 invalid, the remainder of the act or the application of the provision
16 to other persons or circumstances is not affected."

17 **ESHB 1046** - S AMD - 386
18 By Senators Quigley, Deccio, Owen and Moyer

19 ADOPTED 4/14/95

20 On page 1, line 1 of the title, after "improvement;" strike the
21 remainder of the title and insert "amending RCW 48.21.045, 48.44.023,
22 and 48.46.066; adding a new section to chapter 70.47 RCW; adding new
23 sections to chapter 48.43 RCW; adding a new section to chapter 48.20
24 RCW; adding new sections to chapter 48.44 RCW; adding new sections to
25 chapter 48.46 RCW; adding a new section to chapter 43.70 RCW; adding a
26 new section to chapter 48.21 RCW; adding a new chapter to Title 48 RCW;
27 adding a new chapter to Title 43 RCW; creating new sections; repealing
28 RCW 18.130.320, 18.130.330, 43.72.005, 43.72.010, 43.72.020, 43.72.030,
29 43.72.040, 43.72.050, 43.72.060, 43.72.070, 43.72.080, 43.72.090,
30 43.72.100, 43.72.110, 43.72.120, 43.72.130, 43.72.140, 43.72.150,
31 43.72.160, 43.72.170, 43.72.180, 43.72.190, 43.72.210, 43.72.220,
32 43.72.225, 43.72.230, 43.72.240, 43.72.300, 43.72.310, 43.72.800,
33 43.72.810, 43.72.820, 43.72.830, 43.72.840, 43.72.870, 48.01.200,
34 48.43.010, 48.43.020, 48.43.030, 48.43.040, 48.43.050, 48.43.060,

1 48.43.070, 48.43.080, 48.43.090, 48.43.100, 48.43.110, 48.43.120,
2 48.43.130, 70.170.140, 48.43.140, 48.43.150, 48.43.160, 48.43.170,
3 48.01.210, 48.20.540, 48.21.340, 48.44.480, 48.46.550, 70.170.100,
4 70.170.110, 70.170.120, 70.170.130, 70.170.140, 48.44.490, 48.46.560,
5 and 43.72.200; providing effective dates; and declaring an emergency."

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