

1 **SHB 2018** - H AMD TO H AMD (2018-S AMH DYER H2836.2) **342 AD 3-18-97**

2 By Representative Dyer

3 On page 49 of the amendment, after line 37, insert the  
4 following:

5 NEW SECTION. **Sec. 401.** WICKLINE CLAUSE STUDY. (1) There is  
6 some question regarding who should be liable when a health carrier  
7 or other third party-payer refuses to pay for or provide health  
8 services recommended by a health care provider and the patient  
9 suffers injury as a result of not receiving the recommended care.  
10 This issue typically arises in managed care systems, which  
11 integrate the financing and delivery of health care services to  
12 covered persons through selected providers. Contracts between  
13 health carriers and providers may address potential liability  
14 issues regarding the relationships between the carriers and the  
15 providers. Some contracts shift potential liability for a health  
16 carrier's decision not to pay for recommended health services to  
17 the provider or patient through what are commonly referred to as  
18 Wickline clauses-. These clauses generally state it is a medical  
19 decision between the provider and patient as to whether the patient  
20 receives services that the carrier refuses to cover; this ignores  
21 the fact that the decision not to provide coverage influences the  
22 decision of the patient whether to receive the recommended care.  
23 The legislature intends to review the policy questions raised by  
24 this issue, particularly to what extent the carrier should be able  
25 to avoid liability for its decisions by insulating itself through  
26 its contracts with providers.

27 (2) A joint task force on Wickline clauses shall review the  
28 practice of contractually assigning or avoiding potential liability  
29 for decisions by health carriers or other third-party payers not to  
30 pay for health care services recommended by a health care provider.

31 The task force shall be comprised of two members of the house of  
32 representatives appointed by the speaker of the house, one from  
33 each major caucus, two members of the senate appointed by the

1 president of the senate, one from each major caucus, and eight  
2 persons appointed by the legislative members of the task force.  
3 The eight non-legislative persons on the task force shall consist  
4 of: 2 representatives of health care providers; 2 representatives  
5 of health care consumers; 2 representatives of health carriers; and  
6 2 representatives of self-funded health plans. The legislative  
7 members shall organize and administer the task force. Staffing  
8 shall be provided by the office of program research and senate  
9 committee services.

10 (3) The task force shall report to the health care committees  
11 of the legislature by December 1, 1997. The report shall discuss  
12 the policy issues regarding Wickline clauses and the more general  
13 issue of potential liability for decisions of health carriers and  
14 others not to cover health care recommended by the provider. The  
15 report may contain recommendations for the legislature to  
16 consider.-

17 Renumber remaining sections consecutively and correct internal  
18 references accordingly.

**EFFECT:** Creates a task force to review Wickline clauses and related issues. The task force is made up of 2 Senators, 2 Representatives, 2 representatives each of health care providers, consumers, health carriers, and self-funded health plans. A Wickline clause generally states that the health carrier is not liable for its decision not to cover a certain health care service; the provider generally assumes liability under these clauses as part of the provider-patient relationship. The task force makes a report and recommendations to the health care committees in the legislature by December 1, 1997.