

# HOUSE BILL REPORT

## HB 1728

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### As Reported by House Committee On:

Health Care  
Appropriations

**Title:** An act relating to third-party administrators for health carriers.

**Brief Description:** Regulating the activities of insurance third-party administrators.

**Sponsors:** Representatives Campbell, Schual-Berke, Skinner and Cody.

### Brief History:

#### Committee Activity:

Health Care: 2/15/01, 2/22/01 [DPS];

Appropriations: 3/1/01, 3/8/01 [DP2S(w/o sub HC)].

#### Brief Summary of Second Substitute Bill

- Regulates third party administrators for health carriers under Title 48 RCW.

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### HOUSE COMMITTEE ON HEALTH CARE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Campbell, Republican Co-Chair; Cody, Democratic Co-Chair; Schual-Berke, Democratic Vice Chair; Skinner, Republican Vice Chair; Alexander, Ballasiotes, Conway, Darneille, Edmonds, Edwards, Marine, McMorris, Pennington and Ruderman.

**Staff:** Dave Knutson (786-7146).

### Background:

The insurance industry is regulated by the Insurance Commissioner under the statutory authority granted in Title 48 RCW. The commissioner oversees the corporate activities of health carriers and regulates the provisions of health insurance services to consumers.

A "third party administrator" manages a health insurance program or health plan for an organization, and functions as an intermediary between a health carrier and an insured person. Third party administrators typically process claims and may also collect

premiums and solicit enrollees. Some administrators are given broad authority to manage an insurance plan, including rejecting claims.

There are currently no state statutes or regulations specific to the regulation of third party administrators for health carriers.

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**Summary of Substitute Bill:**

A new chapter is added to the insurance code, Title 48 RCW, setting forth a statutory scheme for the regulation by the commissioner of "third party administrator's" (TPA). The chapter addresses licensing requirements, the regulatory powers of the commissioner, and the legal obligations among the insurer, the insured, and the TPA.

A detailed written agreement is required between a TPA and a health carrier that addresses the duties assumed by the TPA on behalf of the carrier. The agreement must address all TPA functions required under the chapter.

The TPA is required to keep extensive records regarding all transactions. The commissioner has a right of access to these records.

The business relationship between the TPA and the health carrier is subject to considerable regulation, with the carrier being primarily responsible for the proper management of the program.

The TPA has a duty of disclosure to both the health carrier and an enrollee. An enrollee must be informed of the nature of the contractual relationship among the parties and any fees charged by the TPA must be itemized separate from any premium.

The licensing requirements for TPAs are subject to extensive regulation by the commissioner, who is granted broad latitude with respect to the issuance, suspension and revocation of licenses.

The commissioner may deny a license if he determines that an applicant is incompetent, untrustworthy, financially irresponsible, has a poor personal or business reputation, has been subject to denial or revocation of a license in another jurisdiction, or would be subject to license suspension or revocation as provided elsewhere in the chapter.

It is mandatory that the commissioner deny, suspend or revoke a license if a TPA is found to be in unsound financial condition, or the business is potentially injurious to health carriers or the public, or the TPA has failed to pay any judgment within 60 days of entry. Such action is discretionary for certain violations of law or regulations, failure to cooperate with the regulatory process, criminal behavior, insolvency, or potentially harmful business practices. A fine may be imposed in lieu of other discretionary action

by the commissioner.

A TPA is required to file an annual report with the commissioner identifying the health carriers represented by the TPA and such other information as may be required by the commissioner. The commissioner, in turn, is required to complete a review of each TPA doing business in this state. The commissioner must certify that the TPA is either solvent and in compliance with existing law, or note any deficiencies in the operations of the TPA.

**Substitute Bill Compared to Original Bill:**

The definition of "administrator" is clarified to include a person who is involved in connection with disability insurance or the prepayment of health care services to residents of this state, or residents of another state from offices in this state. Groups excluded from the definition of "administrator" include: health carriers authorized to transact insurance in this state or another state; health care contractors and health maintenance organizations; and agents or brokers licensed to sell disability insurance or prepaid health care in this state. The provision that information obtained by the commissioner as part of an investigation is confidential and not subject to discovery and not admissible as evidence is deleted. Provisions related to the home state regulation of administrators is clarified. A delayed effective date of January 1, 2002, is provided.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Third party administrator play an important role in determining the nature and extent of health care services provided to consumers. Their activities should be regulated by the Office of the Insurance Commissioner.

**Testimony Against:** It is difficult to see who would be regulated under this proposal. Some organizations perform these functions using subsidiaries, and they should not have to be regulated. The National Association of Insurance Commissioners will not have their final Third Party Administrators draft legislation completed until the fourth quarter of 2001. The legislation should not be effective until the model draft legislation is finalized.

**Testified:** (In support) Steve Wehrly, Washington State Chiropractors; and Andrea Stephenson, Empower Alliance.

(Concerns) Andrew Dolan, Washington State Medical Association; Jim Tompkins, Office of the Insurance Commissioner; and Larry Shannon, Washington State Trial Lawyers Association.

(Against) Mel Sorensen, Employer Healthcare Coalition; and Ken Bertrand, Group Health.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care. Signed by 22 members: Representatives Sehlin, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; Lisk, Republican Vice Chair; Buck, Cody, Dunshee, Fromhold, Gombosky, Grant, Kagi, Keiser, Kenney, Kessler, Lambert, Linville, Mastin, Ruderman, D. Schmidt, Talcott and Tokuda.

**Minority Report:** Do not pass. Signed by 8 members: Representatives Alexander, Benson, Boldt, Clements, Cox, Mulliken, Pearson and Pflug.

**Staff:** Linda Brooks (786-7153).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care:**

Groups of health care providers who adjust or settle claims for the providers in the group are exempt from the definition of "third party administrator." Health carriers are required to oversee third party administrators actions and ensure compliance with the Patient Bill of Rights.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** (Substitute bill) There is a need for this bill as there are more and more health insurance carriers who are subcontracting with third party administrators, removing doctors and other practitioners from the decision-making process. There are problems. Within the last six months, the Office of the Insurance Commissioner has received over 3,000 letters of complaint regarding a third party administrator. A third party administrator who would be regulated under this bill is requiring that all chiropractors' offices have exam rooms with two-inch thick walls for visual and auditory

privacy. However, this same requirement is not being imposed for dentists' offices, emergency rooms, or hospital rooms.

**Testimony Against:** (Substitute bill) The need for new oversight for third party administrators is not well established. This legislation would only increase administrative costs and hassles. The fiscal note is woefully inadequate and may only estimate 10 percent of what the actual costs will be, since the bill is written so broadly. The fiscal note also does not reflect on how health care rates will increase as a result of this legislation, including rates paid to cover state employees. The substitute bill includes 14 exemptions, but does not clearly define who actually would be covered by the legislation. Rather than this legislation, the funding priority for the insurance commissioner's office should be regaining full accreditation with the National Association of Insurance Commissioners.

**Testified:** Lori Bielinski, Washington State Chiropractic Association; Steve Linstrom, Complementary Health Care Plans; Mel Sorensen, Employer Healthcare Coalition; Rick Wickman, Premera; Carl Nelson, Washington State Medical Association; Ken Bertrand, Group Health; and Jim Halstrom, Master Builders Association and Washington Healthcare Purchasing.