

SENATE BILL REPORT

SB 5028

As Reported By Senate Committee On:
Judiciary, February 26, 2001

Title: An act relating to the legal presumption from certification of medical records.

Brief Description: Establishing the legal presumption of reasonable value from the certification of health care records.

Sponsors: Senators Franklin and Regala.

Brief History:

Committee Activity: Judiciary: 1/16/01, 2/26/01 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5028 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Hargrove, Johnson, Kastama, Long, McCaslin, Roach, Thibaudeau and Zarelli.

Staff: Lidia Mori (786-7755)

Background: Washington case law provides that a plaintiff must prove the reasonable value of necessary medical care treatment and services in order to recover health care costs in liability and benefit cases. The plaintiff or the person claiming benefits must call medical providers as witnesses to testify that the treatment provided was necessary for the injuries suffered and that the charges for the treatment were reasonable.

Proponents of this bill have found that sometimes physicians are unwilling or unable to testify as to what charges are usual and normal in the community now that managed care has become prevalent. It is believed that requiring the plaintiff to prove not only that he or she acted reasonably in seeking treatment but also prove the reasonable value of the treatment received contradicts the basic tenets of tort law and is fundamentally unfair.

Summary of Substitute Bill: A rebuttable presumption is established that treatment charges on a health care provider's certified billing statement are the reasonable value of health care treatment. Certified health care provider billing statements are admissible to establish reasonable charges but may be rebutted by a preponderance of the evidence.

Substitute Bill Compared to Original Bill: Certified billing statements of health care providers are presumed to be the reasonable value of treatment and the presumption that the treatment was necessary is removed. The billing statements are admissible in evidence to show the charges were usual and customary in the community which may be rebutted by a preponderance of the evidence.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The intent of this bill is to avoid over burdening the medical community having to come to court to testify to each part of medical treatment. Some doctors even refuse to honor subpoenas. This bill can reduce the cost of litigation because there will be less need to call expert witnesses. Currently, if the defense does not stipulate to the medical charges, the plaintiff is forced to put on expert witnesses.

Testimony Against: Health care provider's fees and practices vary widely. It is uncertain whether this bill would reduce court time because of the need that will arise to rebut the presumption. The bill does not limit itself to litigation settings and doesn't connect the medical charges with the underlying injury.

Testified: Senator Rosa Franklin; James Leggett (pro); Tom Quinlan (pro); Larry Shannon, Washington State Trial Lawyers (pro); Mel Sorenson, National Association of Independent Insurers, Employer Healthcare Coalition (con); Jean Leonard, State Farm Insurance, Washington Insurance, Alliance of American Insurers (con); Robb Menaul, Washington State Hospital Association (con).