HOUSE BILL REPORT
HB 2786

As Reported by House Committee On:
Health Care

Title: An act relating to improving health care professional and health care facility patient safety practices.

Brief Description: Improving patient safety practices.

Sponsors: Representatives Cody, Campbell, Morrell, Schual-Berke, Lantz, Clibborn, Simpson, G., Moeller, Upthegrove and Kagi.

Brief History:
Committee Activity:
Health Care: 1/27/04, 2/3/04 [DPS].

Brief Summary of Substitute Bill

- Allows coordinated quality improvement programs to share information with other programs while maintaining protections from discovery or admissibility into evidence in a civil action.
- Creates the Patient Safety Account to fund patient safety and medical errors reduction programs through funds raised by a charge to health care providers and facilities and payment of 1 percent of a plaintiff's attorney's contingency fees in actions for injuries resulting from health care.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cody, Chair; Morrell, Vice Chair; Bailey, Ranking Minority Member; Alexander, Campbell, Clibborn, Darneille, Moeller, Rodne and Schual-Berke.

Minority Report: Do not pass. Signed by 1 member: Representative Skinner.

Staff: Chris Blake (786-7392).

Background:

Hospitals are required to maintain coordinated quality improvement programs designed to improve the quality of health care services and prevent medical malpractice. Other health institutions and medical facilities, and health provider groups consisting of at least 10 providers, are authorized to maintain coordinated quality improvement programs. Coordinated quality improvement programs maintained by these other entities must be approved by the Department of Health and must comply, or substantially comply, with the statutorily required components of the hospital coordinated quality improvement programs.

The programs must include: a medical staff privileges sanction procedure; periodic review of employee credentials and competency in the delivery of health care services; a procedure for prompt resolution of patient grievances; collection of information relating to negative outcomes, patient grievances, settlements and awards, and safety improvement activities; and quality improvement education programs. Components of the education programs include quality improvement, patient safety, injury prevention, improved communication with patients, and causes of malpractice claims.

With some limited exceptions, information and documents created for or collected and maintained by a quality improvement committee are not subject to discovery, not admissible into evidence in any civil action, and are confidential and not subject to public disclosure. A person participating in a meeting of the committee or in the creation or collection of information for the committee may not testify in any civil action regarding the content of the committee proceedings or information created or collected by the committee.

A provision of law immunizes a health care provider who, in good faith, files charges or presents evidence against another provider before a regularly constituted review committee or board of a professional society or hospital on grounds of incompetency or misconduct. The proceedings and records of a review committee or board are not discoverable except in actions relating to the recommendation of the review committee or board involving restriction or revocation of the provider's privileges.

Summary of Substitute Bill:

Coordinated Quality Improvement Programs

Coordinated quality improvement programs may share information and documents created specifically for a quality improvement committee or peer review committee with other coordinated quality improvement programs for the purpose of improving health care services and identifying and preventing medical malpractice. The information shared is confidential and is neither subject to discovery nor admissible in civil proceedings. Participants in a coordinated quality improvement program that shares information with other programs in good faith and in accordance with confidentiality and disclosure

requirements are not liable for any damages resulting from sharing the information.

Health care provider groups that consist of five or more providers may maintain a coordinated quality improvement program.

Patient Safety Account

The "Patient Safety Account" (account) is created. The account is to be funded in two ways. First, a $2 surcharge is placed on licenses for 16 health professions and $2 per licensed bed is charged to hospitals and psychiatric hospitals. Second, 1 percent of the contingency fee for an attorney representing the prevailing plaintiff in an action for injuries resulting from health care must be provided to the Department of Health (Department) for transfer into the account.

The account is to be used for grants, loans, and other arrangements that support efforts to reduce medical errors and enhance patient safety. The Department must establish criteria for the types of programs to receive funds. The criteria must emphasize evidence-based practices recommended by governmental and private organizations including the Agency for Health Care Quality and Research, the Institute of Medicine, the Joint Commission on Accreditation of Health Care Organizations, and the National Quality Forum. At least two of the projects must implement recommendations of the Institute of Medicine's report *Keeping Patients Safe: Transforming the Work Environment of Nurses*. Funding priority is given to projects that are proven to enhance patient safety and reduce medical errors as opposed to those that only have a substantial likelihood of doing so. Project proposals must have performance measures.

By December 1, 2007, the Department must report to the Legislature about the funds raised, criteria developed, and projects funded. The account provisions expire December 31, 2010.

The account is a non-appropriated account and the Secretary of Health may authorize expenditures.

Substitute Bill Compared to Original Bill:

The substantial good faith requirement for those reporting the unprofessional conduct of health care providers is replaced with the phrase "good faith." The 1 percent deduction from settlements or judgments for injuries resulting from health care is changed to a deduction from the contingency fees charged by any attorney representing the prevailing plaintiff in an action for injuries resulting from health care. If the deduction is declared unconstitutional, then attorneys are required to inform their clients of the existence and purpose of the Patient Safety Account and their ability to contribute to it.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 203, relating to a surcharge on licenses for health care providers and facilities, which takes effect July 1, 2004.

Testimony For: Medicine has become more complicated and when errors occur it is often the fault of the medical system, not the individual health care provider. Protection from liability will allow for an open discussion of patient safety issues. This bill should be a part of comprehensive reform.

Testimony Against: Input for the project criteria for the program should also come from health care workers. It is not clear whether or not secrecy protects the public.

Persons Testifying: (In support) Maureen Callaghan, Washington State Medical Association; Patti Rathbun, Department of Health; Lisa Thatcher, Washington State Hospital Association; and Ken Bertrand, Group Health Cooperative.

(Concerns) Sharon Ness, United Food and Commercial Workers.

(Support with amendment) Larry Shannon and Bob Dawson, Washington State Trial Lawyers Association.

Persons Signed In To Testify But Not Testifying: None.