

HOUSE BILL REPORT

E2SHB 1291

As Amended by the Senate

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

Brief Description: Improving patient safety practices.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Cody, Bailey, Morrell, Hinkle, Green, Moeller, Kessler, Haigh, Linville, Kagi, Santos and Ormsby).

Brief History:

Committee Activity:

Health Care: 2/4/05, 2/11/05 [DPS];

Appropriations: 2/23/05, 3/2/05 [DP2S(w/o sub HC)].

Floor Activity:

Passed House: 3/14/05, 84-12.

Senate Amended.

Passed Senate: 4/14/05, 28-20.

Brief Summary of Engrossed Second Substitute Bill

- Creates the Patient Safety Account to fund patient safety and medical error reduction programs through funds raised by (1) a charge to health care providers and facilities, and (2) payment of 1 percent of attorneys' 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 9 members: Representatives Cody, Chair; Morrell, Vice Chair; Bailey, Ranking Minority Member; Appleton, Clibborn, Green, Lantz, Moeller and Schual-Berke.

Minority Report: Do not pass. Signed by 5 members: Representatives Curtis, Assistant Ranking Minority Member; Alexander, Condotta, Hinkle and Skinner.

Staff: Chris Blake (786-7392).

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 17 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia and Schual-Berke.

Minority Report: Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Bailey, Buri, Clements, Hinkle, Pearson, Priest, Talcott and Walsh.

Staff: Amy Hanson (786-7118).

Background:

In 1999, the Institute of Medicine reported that between 44,000 and 98,000 people die in the United States every year due to medical errors. At the federal level, the Agency for Healthcare Research and Quality (AHRQ) funds research to reduce medical errors and increase patient safety. In 2001, AHRQ provided almost \$50 million in funding for 94 grants related to health care work conditions, the use of information technology, medical errors data reporting, and other patient safety projects.

In Washington, hospitals maintain quality improvement committees to improve the quality of health care services and prevent medical malpractice. Quality improvement proceedings review medical staff privileges and employee competency, collect information related to negative health care outcomes, and conduct safety improvement activities. Provider groups and medical facilities other than hospitals are encouraged to conduct similar activities.

Summary of Engrossed Second Substitute Bill:

The "Patient Safety Account" (Account) is created. The Account is to be funded in two ways. First, the Secretary of Health must collect a \$2 surcharge on licenses for 15 health professions and \$2 per licensed bed are charged to acute care hospitals and psychiatric hospitals. Second, 1 percent of the fees collected by attorneys in medical malpractice cases where the plaintiff received money in a settlement or judgment must be provided to the Department of Health (Department) for transfer into the Account.

The Account is an appropriated account that 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 Healthcare Research and Quality, 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.

By December 1, 2008, the Department must report to the Legislature about the funds raised, criteria developed, and projects funded.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment limits the admissibility of a statement of fault, apology, or sympathy, or a statement of remedial actions that may be taken, in a medical negligence action if the statement was conveyed by a health care provider to the injured person or certain family members more than 20 days before the suit was filed and it relates to the person's discomfort, pain, or injury.

The Senate amendment provides immunity in a civil action for a health care professional who makes a good faith report, files charges, or presents evidence to a disciplining authority against another member of a health profession relating to unprofessional conduct or inability to practice safely due to a physical or mental condition.

The Senate amendment allows a health profession disciplining authority to consider prior findings of unprofessional conduct, stipulations to informal disposition, and the actions of other in-state or out-of-state disciplining authorities when imposing a sanction against a health care provider.

The Senate amendment requires that medical facilities submit reports of the occurrence of adverse events to the Department of Health. Medical facilities must notify patients that may have been affected by the adverse event. The Department is responsible for investigating reports of adverse events and establishing a system for medical facilities and health care workers to report adverse events and incidents. In addition, the Department must evaluate the data from the reports and provide recommendations for reducing the occurrence of adverse events. Confidentiality protections apply to certain reports.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 103, regarding a surcharge on healthcare provider and facility licenses, which takes effect July 1, 2005.

Testimony For: (Health Care) This bill establishes sound policy for improving health care for patients.

(With concerns) The funding burden should be borne by both plaintiffs' and defendants' attorneys.

Testimony For: (Appropriations) Nursing home administrators do not provide care or engage in the practice of medicine and therefore should not be subject to the additional fee. We support the funding mechanism, but it is disproportionately borne by what is in essence a Business and Occupation tax on successful plaintiff lawyers who have brought the most meritorious of cases to a resolution and that is going to be two-thirds of the funding source for

this mechanism. We have concerns about the expansiveness of the apology section. Early admissions and apologies have become a proven and true mechanisms to cut down on the incidence and costs of malpractice litigation. It is the scope of this that we would like to continue to work to change.

Testimony Against: (Health Care)

Testimony Against: (Appropriations) None.

Persons Testifying: (Health Care) (In support) Anne Tan Piazza, Washington State Nurses Association; and Karen Merrikin, Group Health Cooperative.

(In support with concerns) Pat Greenstreet, Washington State Trial Lawyers Association.

(With concerns) Mark Johnson, Washington State Bar Association.

Persons Testifying: (Appropriations) Deb Murphy, Washington Association of Housing and Services for the Aging; and Larry Shannon, Washington State Trial Lawyers Association.

Persons Signed In To Testify But Not Testifying: (Health Care) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.