SENATE BILL REPORT
E2SSB 5958

As Amended by House, April 12, 2007

Title: An act relating to innovative primary health care delivery.

Brief Description: Creating innovative primary health care delivery.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Parlette, Marr and Kohl-Welles).

Brief History:
Committee Activity: Health & Long-Term Care: 2/22/07, 2/28/07 [DPS].
Ways & Means: 3/05/07, 3/05/07 [DP2S].
Passed Senate: 3/09/07, 38-10.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5958 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug, Ranking Minority Member; Carrell, Fairley, Kastama, Kohl-Welles, Marr and Parlette.

Staff: Mich'l Needham (786-7442)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5958 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Erik Sund (786-7454)

Background: Retainer health care, sometimes known as concierge medicine or direct patient-provider practices, is an approach to medical practice in which physicians charge their patients a fee or retainer in exchange for enhanced services or amenities. Retainer practices typically care for fewer patients than conventional practices and provide personalized health care services that may include same-day appointments, comprehensive annual physicals, home visits, immediate access to a physician via phone or pager, or other services.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A recent review by the U.S. Government Accountability Office indicates there are a small but growing number of retainer practices, and they are largely concentrated on the west and east coasts. A disproportionate number are in Washington State, where the idea appears to have been initiated in 1996.

The Office of the Insurance Commissioner (OIC) has determined that health care providers engaged in direct patient billing or retainer health care are subject to current state law governing health care service contractors, but believes the full scope of regulation under this law is neither practical nor warranted.

Summary of Engrossed Second Substitute Bill: Direct patient-provider primary care practices are explicitly exempted from the definition of health care service contractors in insurance law. Direct practices are defined as providers or entities furnishing primary health care services, as outlined in a direct agreement, for a monthly fee. Primary care means routine health care services, including screening, assessment, diagnosis, and treatment for the promotion of health, and detection and management of disease or injury. Services covered under the direct fee may not include hospitalization, major surgery, dialysis, high level radiology, rehabilitation services, procedures requiring general anesthesia, or similar advanced procedures, services, or supplies.

The direct fee must represent the total amount for services specified in the agreement, and providers may charge additional fees for supplies, medications, and specific vaccines that are not covered by the direct agreement. All direct agreements will include a comprehensive disclosure statement indicating the agreement does not provide comprehensive health insurance coverage. Providers may sign participating provider contracts with insurance carriers to ensure patients have access to referrals to other participating providers, but direct practice providers may not submit claims for services provided to direct patients.

Standards describing the direct practices are placed in Title 48 insurance laws; however, the direct practices are not insurance carriers, and they may not sell their product to groups like an insurance carrier. Direct practices must register annually with the Office of Insurance Commissioner, and the Commissioner will be the lead agency for consumer protection concerns.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill (Health & Long-Term Care): PRO: Traditional primary care practice has changed into a busy, stressful, and unsafe environment. Direct patient-care allows the patient-provider relationship to be unhindered by outside influence, and allows a smaller and safer practice that has more time for each patient. Eliminating billing to insurance has created a more financially stable practice and streamlined the business. Patients are still using their insurance for other services. This may provide an innovative way to provide insurance or care for the growing numbers of uninsured. The bill

strikes a good balance between regulation and innovation. This provides an option for small businesses to access an affordable product.

CON: These concierge practices are not new and innovative; they have been available for a price for a long time. Direct payment for services is not new; Group Health has been doing this for a long time. But it is insurance and needs regulation. Prepayment for a set of services requires consumer protections. The bill is too broad and doesn't define primary care or limit the scope of services these practices can promise. The bill would allow large corporations to franchise direct-practices and sell an insurance product with no oversight, no mandates, and no premium taxes like other insurance carriers. Our past experience in Washington with providers accepting direct payment and managing financial risk didn't work well. When groups went under, carriers were left paying claims twice for consumers. There will be disputes over what is covered in the payment and some regulation would help resolve these issues. Currently, the bill provides no regulatory oversight at all.

Persons Testifying (Health & Long-Term Care): PRO: Dr. Erika Bliss, Dr. Garrison Bliss, Norm Wu, Lisa Thatcher, Bliss M.D., Inc.; Susie Tracey, Washington State Medical Association; Carolyn Logue, National Federation of Independent Business.

CON: Dr. Steve Tarnoff, Ken Bertrand, Group Health; Sydney Zvara, Association of Washington Health Care Plans; Nancee Wildermuth, Regence, Aetna, and PacifiCare.

Staff Summary of Public Testimony on Substitute Bill (Ways & Means): PRO: This is a good bill that passed out of the policy committee unanimously. The second substitute bill removes the fiscal impact that the first substitute inadvertently produced.

CON: Though the direct costs are eliminated in the second substitute, some risk of adverse fiscal impact remains. This bill provides no oversight for the rates charged by direct patient-provider practices, which may charge different rates based on patients' place of residence, sex, or medical history.

Persons Testifying (Ways & Means): PRO: Lisa Thatcher, Bliss M.D.

CON: Ken Bertrand, Group Health Cooperative.

House Amendment(s): In addition to insurance carriers under title 48, direct providers may not bill Health Care Authority plans for Public Employees Benefit Board or Basic Health. Providers may not decline to accept new patients solely on account of race, religion, national origin, sensory, mental or physical disability, education, economic status, or sexual orientation. The direct fee schedule may not be increased to more frequently than annually, and fees for comparable services must not vary from patient to patient. The direct practice may discontinue care under specified conditions. The OIC must study direct care practices and submit a report December 2012.