SENATE BILL REPORT
SB 5958

As Reported By Senate Committee On:
Health & Long-Term Care, February 28, 2007
Ways & Means, March 5, 2007

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

Brief Description: Creating innovative primary health care delivery.

Sponsors: 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].

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.

Summary of Bill: Direct patient-provider primary care practices are explicitly exempted from the definition of health care service contractors in insurance law. Direct patient-provider primary care practices are defined as entities furnishing health care services outlined in a direct agreement. The direct fee must represent the total amount for services specified in the agreement, and may be paid by the patient or a third party. Providers may charge additional fees for goods and services not covered by the direct agreement. Direct practices are not subject to any regulation by the Office of Insurance Commissioner. Standards describing the direct practices are placed in a new chapter of public health laws.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Health & Long-Term Care): Certain services are excluded from direct-practice arrangements (hospitalization costs, major surgery, dialysis, high level radiology, rehabilitation services, or procedures requiring general anesthesia). Agreements must add a disclosure statement indicating the agreement does not provide comprehensive health insurance coverage. Nonprofit corporations are no longer eligible to be direct-practices. Trust accounts are replaced with escrow accounts. Practices may not discontinue care for existing patients solely due to the patient's health status. Violations constitute unprofessional conduct under Title 18, and prohibited acts may be restrained by the Attorney General. A person must be designated to resolve complaints. Direct-practices must register annually with the Office of Insurance Commissioner. Carriers may not discriminate in paying for covered services when direct-practice providers are non-participating and refer patients for goods and services.

EFFECT OF CHANGES MADE BY RECOMMENDED SECOND SUBSTITUTE AS PASSED COMMITTEE (Ways & Means): A health carrier is not required to pay for services that are ordered by a direct practice provider that does not participate in a contract with the carrier.

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 (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 (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.