
Health Care & Wellness Committee

ESB 6263

Brief Description: Establishing the Washington vaccine association.

Sponsors: Senator Keiser.

Brief Summary of Engrossed Bill

- Establishes a nonprofit corporation to facilitate universal purchase of vaccines for children and assess health carriers and third-party administrators for the cost of vaccines for certain children under the age of 19 years.
- Directs the Department of Licensing to register all third-party administrators for a health insurer or health care purchaser by September 1, 2010, and renew their registration annually.
- Authorizes the vaccine association board to recommend termination of the association on or after June 30, 2015. If the Legislature has not acted to reject the board's recommendation by the last day of the next regular legislative session, the board may vote to permanently dissolve the association.

Hearing Date: 2/18/10

Staff: Dave Knutson (786-7146).

Background:

Washington purchases vaccines for all children regardless of their health insurance coverage and participates in the free distribution system provided by the federal government for federally—and state-funded vaccines. This universal purchase program has provided access to the federal Centers for Disease Control and Prevention (CDC) contract pricing of the vaccines, and a single order distribution system delivers vaccines to all health care providers in the state.

The 2009-2011 biennial operating budget provided state funding for the universal purchase vaccine system until May 2010. When state funding ends, the federal Vaccines for Children (VFC) program will continue to purchase vaccines for Medicaid, Native American/Alaskan,

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uninsured, and underinsured children. State purchasing of vaccines for non-VFC children will end, impacting children covered by individual insurance policies, employer-based coverage, and Taft-Hartley plans by shifting expenses for the vaccine purchase to these other plans and ending access to the CDC contract pricing. Elimination of the universal purchase system will also end the single order distribution system for providers, and require providers to establish a separate and parallel system for purchase, storage, and administration of vaccines for non-VFC children. This may result in an increased expense and workload for health care providers as they will have to account for vaccines differently, depending on whether the entity paying for the vaccine is a public or private party.

Summary of Bill:

The Washington Vaccine Association (Association) is formed as a nonprofit corporation to facilitate universal purchase of vaccines for children, and assess health carriers and third-party administrators for the cost of vaccines for certain children under the age of 19.

The Association's Board of Directors (Board) includes representatives from the licensed health carriers or third-party administrators with the most covered lives in Washington; a health maintenance organization with the most covered lives in Washington; other third-party administrators representing Taft-Hartley health benefit plans and self-funded health care purchasers; other carriers; health care providers, including one board certified pediatrician; and the Secretary of the Department of Health (Secretary, DOH) as a non-voting member.

The DOH must calculate the total nonfederal program cost for the upcoming calendar year by October of each year, as well as the anticipated nonfederal program cost for May through December 2010 by April 1, 2010. The Board must establish the estimate for the initial assessment period for May 1, 2010, through December 31, 2010, and notify participants by May 15, 2010. Beginning November 1, 2010, and annually thereafter, the Board must establish the method and timing of assessment collection, and develop the formula for the assessment. The Board must develop a mechanism to verify the number and cost of vaccine doses purchased and administered to children covered by each participant that are attributed to each participant to reflect the actual experience with vaccine use.

Participants may prepay the assessment for the initial deposit into the universal vaccine purchase account established in the state treasury. In order to generate start-up funding, the initial deposit must be made before April 30, 2010. Only the Secretary or the Secretary's designee may authorize expenditures from the account.

The Board must establish a committee to develop recommendations to the Board on vaccines to be purchased for the upcoming year. The committee is comprised of at least five voting members, including three carrier or third party administrator representatives, one physician, the Secretary or the Secretary's designee, and one non-voting member representing the vaccine manufacturers. The representative of the vaccine manufacturers is chosen by the Secretary from a list of three nominees submitted collectively by vaccine manufacturers. In selecting vaccines, the committee should consider patient safety and clinical efficacy, public health and purchaser value, patient and provider choice, and stability of vaccine supply. Vaccines manufactured with added mercury may not be purchased unless the mercury-free order cannot be filled and the Secretary declares a temporary emergency shortage.

The Association may audit compliance by any health carrier or third-party administrator. The DOH must assess a civil penalty against any carrier or third-party administrator failing to pay the assessment within three months of notification. The penalty is 150 percent of the delinquent assessment. The DOH and the Association may file liens or seek recovery of costs.

All entities that act as third-party administrators for a health insurer or health care purchaser must register with the Department of Licensing (DOL) by September 1, 2010, and renew their registration annually. Any third-party administrator that fails to register is subject to a civil penalty of between \$1,000 and \$10,000.

The Board members are provided immunity from liability for any lawful action provided in the course of their duties. The Board may vote to recommend termination of the association on or after June 30, 2015, if the Association finds the original intent to ensure more cost-effective purchase and distribution of vaccine than if provided through uncoordinated purchase by health care providers has not been achieved. The recommendation must be provided to the Legislature within 30 days of the vote, and if the Legislature has not acted to reject the Board's recommendation by the last day of the next regular legislative session, the Board may vote to permanently dissolve the Association.

Physicians and clinics ordering state supplied vaccine must ensure they have billing mechanisms in place enabling the Association to accurately track vaccine delivered to each covered life and must submit documentation requested by the Board. Physicians and others providing childhood immunizations are strongly encouraged to use state supplied vaccine whenever possible. Health insurance carriers and third-party administrators may deny claims for vaccine serum costs when serum or serums providing similar protection are available through state supplied vaccine.

If any portion of this program is invalidated by a court, the Board may terminate the program 120 days following a final judicial determination. The assessments paid by carriers may be considered medical expenses for rate setting purposes, and the assessments received by the Association are not subject to the business and occupation tax established under RCW 82.04.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.