
SUBSTITUTE SENATE BILL 6263

State of Washington 61st Legislature 2010 Regular Session

By Senate Health & Long-Term Care (originally sponsored by Senator Keiser)

READ FIRST TIME 02/04/10.

1 AN ACT Relating to the establishment of the Washington vaccine
2 association; amending RCW 43.70.720; adding a new section to chapter
3 43.24 RCW; adding new sections to chapter 43.131 RCW; adding a new
4 chapter to Title 70 RCW; prescribing penalties; and declaring an
5 emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Association" means the Washington vaccine association.

10 (2) "Covered lives" means all persons under the age of nineteen in
11 Washington state who are:

12 (a) Covered under an individual or group health benefit plan issued
13 or delivered in Washington state; or

14 (b) Enrolled in a group health benefit plan administered by a
15 third-party administrator. Persons under the age of nineteen for whom
16 federal funding is used to purchase vaccines are not considered
17 "covered lives" under this chapter.

18 (3) "Estimated vaccine cost" means the estimated cost to the state

1 over the course of a state fiscal year for the purchase and
2 distribution of vaccines purchased at the federal discount rate by the
3 department of health.

4 (4) "Health benefit plan" has the same meaning as defined in RCW
5 48.43.005.

6 (5) "Health carrier" has the same meaning as defined in RCW
7 48.43.005.

8 (6) "Secretary" means the secretary of the department of health.

9 (7) "Third-party administrator" means any person or entity who, on
10 behalf of a health insurer or health care purchaser, receives or
11 collects charges, contributions, or premiums for, or adjusts or settles
12 claims on or for, residents of Washington state or Washington health
13 care providers and facilities.

14 (8) "Total nonfederal program cost" means the estimated vaccine
15 cost less the amount of federal revenue available to the state for the
16 purchase and distribution of vaccines.

17 (9) "Vaccine" means a preparation of killed or attenuated living
18 microorganisms, or fraction thereof, that upon administration
19 stimulates immunity that protects against disease and is approved by
20 the federal food and drug administration as safe and effective and
21 recommended by the advisory committee on immunization practices of the
22 centers for disease control and prevention for administration to
23 children under the age of nineteen years.

24 NEW SECTION. **Sec. 2.** There is created a nonprofit corporation to
25 be known as the Washington vaccine association. The association is
26 formed to assess health carriers and third-party administrators for the
27 cost of vaccines provided to certain children in Washington state.

28 NEW SECTION. **Sec. 3.** (1) The association is comprised of all
29 health carriers issuing or renewing health benefit plans in Washington
30 state and all third-party administrators conducting business on behalf
31 of residents of Washington state or Washington health care providers
32 and facilities. Third-party administrators are subject to registration
33 under section 9 of this act.

34 (2) The association is a nonprofit corporation under chapter 24.03
35 RCW and has the powers granted under that chapter.

1 (3)(a) The board of directors includes the following voting
2 members:

3 (i) Five representatives selected from the licensed health carriers
4 having the most covered lives in Washington state;

5 (ii) Four third-party administrators, two representing Taft-Hartley
6 health benefit plans and two representing self-funded health care
7 purchasers;

8 (iii) Two health care provider representatives, one of whom must be
9 a board-certified pediatrician, appointed by the secretary; and

10 (iv) The secretary, or secretary's designee, who shall serve as an
11 ex officio member.

12 (b) The carrier members of the board must be selected by election
13 from among the carrier members of the association. The third-party
14 administrator members of the board must be selected by election from
15 among the third-party administrator members of the association.

16 (4) The directors' terms and appointments must be specified in the
17 plan of operation adopted by the association.

18 (5) The board of directors of the association shall:

19 (a) Prepare and adopt articles of association and bylaws;

20 (b) Prepare and adopt a plan of operation;

21 (c) Submit the plan of operation to the secretary for approval;

22 (d) Conduct all activities in accordance with the approved plan of
23 operation;

24 (e) On an annual basis, beginning on November 1, 2010, and by
25 November 1st of each year thereafter, establish the amount of the
26 assessment;

27 (f) Enter into contracts as necessary or proper to collect and
28 disburse the assessment;

29 (g) Enter into contracts as necessary or proper to administer the
30 plan of operation;

31 (h) Sue or be sued, including taking any legal action necessary or
32 proper for the recovery of any assessment for, on behalf of, or against
33 members of the association or other participating person;

34 (i) Appoint, from among its directors, committees as necessary to
35 provide technical assistance in the operation of the association,
36 including the hiring of independent consultants as necessary;

37 (j) Notify, in writing, each carrier and third-party administrator

1 of the carrier's or third-party administrator's assessment by November
2 15th of each year;

3 (k) Submit an annual report to the secretary listing those carriers
4 or third-party administrators that failed to remit their assessments;

5 (l) Allow each carrier or third-party administrator up to ninety
6 days after the notification required by (j) of this subsection to remit
7 its assessment or submit an assessment payment plan, subject to
8 approval by the association and initial payment under an approved
9 assessment payment plan;

10 (m) Deposit annual assessments collected by the association, less
11 the association's administrative costs, with the state treasurer to the
12 credit of the universal vaccine purchase account established in RCW
13 43.70.720; and

14 (n) Perform any other functions as may be necessary or proper to
15 carry out the plan of operation.

16 (6) The secretary shall convene the initial meeting of the
17 association board of directors.

18 NEW SECTION. **Sec. 4.** (1) The secretary shall calculate the total
19 nonfederal program cost for the upcoming calendar year by October 1,
20 2010, and October 1st of each year thereafter. In addition, by October
21 1, 2010, the secretary shall calculate the total anticipated nonfederal
22 program cost for the period of May 1st through December 31st, 2010.

23 (2) The board of directors of the association shall determine the
24 amount to be raised in assessments each upcoming year based upon the
25 number of covered lives for whom vaccine must be purchased and the
26 total anticipated nonfederal program cost calculated by the department
27 under subsection (1) of this section. The amount to be raised includes
28 reasonable costs for the association's administration.

29 (3) Except to the extent authorized in subsection (4) of this
30 section, each licensed health carrier and third-party administrator
31 must be assessed in proportion to the number of its covered lives.

32 (4) The board of the association shall develop a mechanism through
33 which the number and cost of doses of vaccine purchased under this
34 chapter that have been administered to children covered by each
35 licensed health carrier and registered third-party administrator are
36 attributed to each such carrier and third-party administrator. This
37 mechanism must include date of service, patient name, vaccine received,

1 and health benefit plan eligibility. The data must be collected and
2 maintained in a manner consistent with applicable state and federal
3 health information privacy laws. Beginning November 1, 2011, and each
4 November 1st thereafter, the board shall factor the results of this
5 mechanism for the previous year into the determination of the
6 appropriate assessment amount for each health carrier and third-party
7 administrator for the upcoming year.

8 (5) For any year in which the total calculated cost to be received
9 from association members through assessments is less than the total
10 nonfederal program cost, the association must pay the difference to the
11 state for deposit into the universal vaccine purchase account
12 established in RCW 43.70.720.

13 (6) The aggregate amount to be raised by the association in any
14 year must be reduced by any surpluses remaining from prior years.

15 (7) The amount to be raised by the association through its initial
16 assessments in 2010, notification of which must be sent to carriers and
17 third-party administrators by November 15, 2010, includes amounts
18 necessary to recover the total nonfederal program cost for calendar
19 year 2011 as well as the anticipated total nonfederal program cost for
20 the period of May 1st through December 31st, 2010. The amount of each
21 carrier's or third-party administrator's assessment for this initial
22 period must be reduced to reflect amounts voluntarily deposited into
23 the universal vaccine purchase account established in RCW 43.70.720 by
24 each carrier or third-party administrator prior to December 31, 2010.

25 NEW SECTION. **Sec. 5.** (1) The board of the association shall
26 establish a committee for the purpose of selecting vaccines to be
27 purchased in each upcoming year by the department of health. The
28 committee must be composed of at least five voting board members,
29 including at least one carrier representative, one third-party
30 administrator representative, and one physician, and the secretary or
31 the secretary's designee. The committee also must include a
32 representative of vaccine manufacturers, who shall be a nonvoting
33 member of the committee. The representative of vaccine manufacturers
34 must be chosen by the secretary from a list of three nominees submitted
35 collectively by vaccine manufacturers on an annual basis.

36 (2) In selecting vaccines to purchase, the following factors should

1 be strongly considered by the committee: Patient safety and clinical
2 efficacy, public health and purchaser value, patient and provider
3 choice, and stability of vaccine supply.

4 NEW SECTION. **Sec. 6.** In addition to the duties and powers
5 enumerated elsewhere in this chapter:

6 (1) The secretary shall assess a civil penalty against any carrier
7 or third-party administrator that fails to pay an assessment within six
8 months of notification under section 3 of this act. The civil penalty
9 is one hundred twenty-five percent of the amount of the delinquent
10 assessment. Civil penalties so levied must be deposited in the
11 universal vaccine purchase account created in RCW 43.70.720.

12 (2) The secretary may adopt rules under chapter 34.05 RCW as
13 necessary to carry out the purposes of this chapter.

14 NEW SECTION. **Sec. 7.** The board of directors of the association
15 shall submit to the secretary, no later than one hundred twenty days
16 after the close of the association's fiscal year, a financial report in
17 a form approved by the secretary.

18 NEW SECTION. **Sec. 8.** No liability on the part of, and no cause of
19 action of any nature, shall arise against any member of the board of
20 the association or against an employee or agent of the association for
21 any lawful action taken by them in the performance of their duties
22 under this chapter.

23 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.24 RCW
24 to read as follows:

25 (1)(a) Beginning September 1, 2010, a third-party administrator
26 must register with the department of licensing and renew its
27 registration on an annual basis thereafter prior to December 31st of
28 each year, or within ten days after the registrant changes its name,
29 business name, business address, or business telephone number,
30 whichever occurs sooner.

31 (b) The registrant shall pay the registration or renewal fee
32 established by the department of licensing as provided in RCW
33 43.24.086.

1 (c) Any person or entity that is acting as or holding itself out to
2 be a third-party administrator while failing to have registered under
3 this section is subject to a civil penalty of not less than one
4 thousand dollars nor more than ten thousand dollars for each violation.
5 The civil penalty is in addition to any other penalties that may be
6 imposed for violations of other laws of this state.

7 (2) For the purposes of this section, "third-party administrator"
8 has the same meaning as defined in section 1 of this act.

9 (3) The department of licensing may adopt rules under chapter 34.05
10 RCW as necessary to implement this section.

11 **Sec. 10.** RCW 43.70.720 and 2009 c 564 s 934 are each amended to
12 read as follows:

13 The universal vaccine purchase account is created in the custody of
14 the state treasurer. Receipts from public and private sources for the
15 purpose of increasing access to vaccines for children may be deposited
16 into the account. Expenditures from the account must be used
17 exclusively for the purchase of vaccines, at no cost to health care
18 providers in Washington, to administer to children under nineteen years
19 old who are not eligible to receive vaccines at no cost through federal
20 programs. Only the secretary or the secretary's designee may authorize
21 expenditures from the account. The account is subject to allotment
22 procedures under chapter 43.88 RCW, but an appropriation is not
23 required for expenditures.

24 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act constitute
25 a new chapter in Title 70 RCW.

26 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.131
27 RCW to read as follows:

28 The Washington vaccine association, established in sections 1
29 through 8 of this act, and its powers and duties shall be terminated on
30 June 30, 2015, as provided in section 13 of this act.

31 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.131
32 RCW to read as follows:

33 The following acts or parts of acts, as now existing or hereafter
34 amended, are each repealed, effective June 30, 2016:

- 1 (1) Section 1 of this act;
- 2 (2) Section 2 of this act;
- 3 (3) Section 3 of this act;
- 4 (4) Section 4 of this act;
- 5 (5) Section 5 of this act;
- 6 (6) Section 6 of this act;
- 7 (7) Section 7 of this act; and
- 8 (8) Section 8 of this act.

9 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and takes effect
12 immediately.

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