

ESSB 5122 - H AMD 508

By Representative Shea

SCOPE AND OBJECT 04/09/2011

1 On page 33, after line 16, insert the following:

2

3 "NEW SECTION. **Sec. 19.** (1) A law or rule pertaining to health
4 care shall not directly or indirectly compel any person, employer, or
5 health care provider to participate in any health care system.

6 (2) A person or employer may pay directly for lawful health care
7 services and shall not be required to pay any penalty, fine, or other
8 sanction for paying directly for lawful health care services.

9 (3) A health care provider may accept direct payment for lawful
10 health care services and shall not be required to pay any penalty,
11 fine, or other sanction for accepting direct payment from a person or
12 employer for lawful health care services.

13 (4) Subject to reasonable and necessary rules that do not
14 significantly and substantially limit a person's or employer's options
15 to participate in any health care system or obtain lawful health care
16 services, the purchase or sale of health insurance in private health
17 care systems shall not be prohibited by law or rule.

18 (5) The provisions of this section do not affect:

19 (a) Health care services a health care provider or facility is
20 required to perform or provide;

21 (b) Health care services permitted by law;

22 (c) The terms or conditions of any health care system to the
23 extent that those terms and conditions do not have the effect of
24 sanctioning a person or employer for paying directly for lawful health
25 care services or a health care provider or facility for accepting
26 direct payment from a person or employer for lawful health care
27 services.

1 (6) For the purposes of this section:

2 (a) "Compel" includes penalties, fines, or other sanctions.

3 (b) "Direct payment or pay directly" means payment for lawful
4 health care services without a public or private third party, not
5 including an employer, paying for any portion of the service.

6 (c) "Health care system" means any public or private entity whose
7 function or purpose is the management of, processing of, enrollment of
8 individuals for or payment for, in full or in part, health care
9 services or health care data or health care information for its
10 participants.

11 (d) "Lawful health care services" means any health-related service
12 or treatment to the extent that the service or treatment is permitted
13 or not prohibited by law or rule that may be provided by persons or
14 entities otherwise permitted or not prohibited by law to offer such
15 services.

16 (e) "Penalties, fines, or other sanctions" means any civil or
17 criminal penalty, fine, tax, salary or wage withholding, surcharge, or
18 any other sanction with a similar effect established by law or rule by
19 a government established, created, controlled, or regulated agency
20 that is used to sanction or discourage the exercise of rights
21 protected under this section.

22 (7) Any federal law, rule, order, or other act by the federal
23 government violating the provisions of this section is hereby declared
24 to be invalid in this state, is not recognized by and is specifically
25 rejected by this state, and is considered as null and void and of no
26 effect in this state.

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28 NEW SECTION. **Sec. 20.** Section 19 is added to chapter 48.44 RCW."

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30 Correct the title.

31
EFFECT: Prohibits a law or rule pertaining to health care from
compelling any person, employer, or health care provider to
participate in any health care system. Allows a person or employer

to pay directly for lawful health care services without penalty, fine, or other sanction. Allows a health care provider to accept direct payment for lawful health care services without penalty, fine, or other sanction. States that the purchase or sale of health insurance in private health care systems shall not be prohibited by law or rule, subject to reasonable and necessary rules that do not significantly and substantially limit a person's or employer's options to participate in any health care system or obtain lawful health care services. Clarifies that these provisions do not affect health care services a health care provider or facility is required to perform or provide, health care services permitted by law, or the terms or conditions of any health care system to the extent that the terms and conditions do not have the effect of sanctioning a person or employer for paying directly for lawful health care services or a health care provider or facility for accepting direct payment for health care services. States that any federal law, rule, order, or other act violating these provisions is invalid in Washington, is not recognized and is specifically rejected by Washington, and is considered null and void and of no effect in Washington.

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