
SUBSTITUTE HOUSE BILL 1311

State of Washington 62nd Legislature 2011 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Bailey, Green, Clibborn, Appleton, Moeller, Frockt, Seaquist, and Dickerson)

READ FIRST TIME 02/16/11.

1 AN ACT Relating to establishing a public/private collaborative to
2 improve health care quality, cost-effectiveness, and outcomes in
3 Washington state; amending RCW 70.250.010 and 70.250.030; adding a new
4 section to chapter 70.250 RCW; creating a new section; and repealing
5 RCW 70.250.020.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) Efforts are needed across the health care system to improve the
9 quality and cost-effectiveness of health care services provided in
10 Washington state and to improve care outcomes for patients.

11 (b) Some health care services currently provided in Washington
12 state present significant safety, efficacy, or cost-effectiveness
13 concerns. Substantial variation in practice patterns or high
14 utilization trends can be indicators of poor quality and potential
15 waste in the health care system, without producing better care outcomes
16 for patients.

17 (c) State purchased health care programs should partner with
18 private health carriers, third-party purchasers, and health care

1 providers in shared efforts to improve quality, health outcomes, and
2 cost-effectiveness of care.

3 (2) The legislature declares that collaboration among state
4 purchased health care programs, private health carriers, third-party
5 purchasers, and health care providers to identify appropriate
6 strategies that will increase the effectiveness of health care
7 delivered in Washington state is in the best interest of the public.
8 The legislature therefore intends to exempt from state antitrust laws,
9 and to provide immunity from federal antitrust laws through the state
10 action doctrine, for activities undertaken pursuant to efforts designed
11 and implemented under this act that might otherwise be constrained by
12 such laws. The legislature does not intend and does not authorize any
13 person or entity to engage in activities or to conspire to engage in
14 activities that would constitute per se violations of state and federal
15 antitrust laws including, but not limited to, agreements among
16 competing health care providers or health carriers as to the price or
17 specific level of reimbursement for health care services.

18 (3) The legislature intends that the Robert Bree collaborative
19 established in section 3 of this act provide a mechanism through which
20 public and private health care purchasers, health carriers, and
21 providers can work together to identify effective means to improve
22 quality health outcomes and cost-effectiveness of care. It is not the
23 intent of the legislature to mandate payment or coverage decisions by
24 private health care purchasers or carriers.

25 **Sec. 2.** RCW 70.250.010 and 2009 c 258 s 1 are each amended to read
26 as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise.

29 (1) "Advanced diagnostic imaging services" means magnetic resonance
30 imaging services, computed tomography services, positron emission
31 tomography services, cardiac nuclear medicine services, ultrasound, and
32 similar new imaging services.

33 (2) "Authority" means the Washington state health care authority.

34 (3) "Collaborative" means the Robert Bree collaborative established
35 in section 3 of this act.

36 (4) "Payor" means (~~public purchasers and~~) carriers licensed under
37 chapters 48.21, 48.41, 48.44, 48.46, and 48.62 RCW.

1 ~~((4) "Public purchaser" means the department of social and health~~
2 ~~services, the department of health, the department of labor and~~
3 ~~industries, the authority, and the Washington state health insurance~~
4 ~~pool)) (5) "Self-funded health plan" means an employer-sponsored health~~
5 ~~plan or Taft-Hartley plan that is not provided through a fully insured~~
6 ~~health carrier.~~

7 ((+5)) (6) "State purchased health care" has the same meaning as
8 in RCW 41.05.011.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.250 RCW
10 to read as follows:

11 (1) Consistent with the authority granted in RCW 41.05.013, the
12 authority shall convene a collaborative, to be known as the Robert Bree
13 collaborative. The collaborative shall identify health care services
14 for which there are substantial variation in practice patterns or high
15 utilization trends in Washington state, without producing better care
16 outcomes for patients, that are indicators of poor quality and
17 potential waste in the health care system. On an annual basis, the
18 collaborative shall identify up to three health care services it will
19 address.

20 (2) For each health care service identified, the collaborative
21 shall:

22 (a) Analyze and identify evidence-based best practice approaches to
23 improve quality and reduce variation in use of the service, including
24 identification of guidelines or protocols applicable to the health care
25 service. In evaluating guidelines, the collaborative should identify
26 the highest quality guidelines based upon the most rigorous and
27 transparent methods for identification, rating, and translation of
28 evidence into practice recommendations.

29 (b) Identify data collection and reporting necessary to develop
30 baseline health service utilization rates and to measure the impact of
31 strategies adopted under this section. Methods for data collection and
32 reporting should strive to minimize cost and administrative effort
33 related to data collection and reporting wherever possible, including
34 the use of existing data resources and nonfee-based tools for
35 reporting.

36 (c) Identify strategies to increase use of the evidence-based best
37 practice approaches identified under (a) of this subsection in both

1 state purchased and privately purchased health care plans. Strategies
2 considered should include, but are not limited to: Identifying goals
3 for appropriate utilization rates and reduction in practice variation
4 among providers; peer-to-peer consultation or second opinions; provider
5 feedback reports; use of patient decision aids; incentives for
6 appropriate use of health care services; centers of excellence or other
7 provider qualification standards; quality improvement systems; and
8 service utilization and outcomes reporting, including public reporting.
9 In developing strategies, the collaborative should strongly consider
10 related efforts of organizations such as the Puget Sound health
11 alliance, the Washington state hospital association, the national
12 quality forum, the joint commission on accreditation of health care
13 organizations, the national committee for quality assurance, the
14 foundation for health care quality, and, where appropriate, more
15 focused quality improvement efforts, such as the Washington state
16 perinatal advisory committee and the Washington state surgical care and
17 outcomes assessment program. The collaborative shall provide an
18 opportunity for public comment on the strategies chosen before
19 finalizing their recommendations.

20 (3) If the collaborative chooses a health care service for which
21 there is substantial variation in practice patterns or a high
22 utilization trend in Washington state, and a lack of evidence-based
23 best practice approaches, it should consider strategies that will
24 promote improved care outcomes, such as patient decision aids, provider
25 feedback reports, centers of excellence or other provider qualification
26 standards, and research to improve care quality and outcomes.

27 (4) The governor shall appoint seventeen members of the
28 collaborative, who must include:

29 (a) Two members, selected from health carriers or third-party
30 administrators that have the most fully insured and self-funded covered
31 lives in Washington state. The count of total covered lives includes
32 enrollment in all companies included in their holding company system.
33 Each health carrier or third-party administrator is entitled to no more
34 than a single position on the collaborative to represent all entities
35 under common ownership or control;

36 (b) One member, selected from the health maintenance organization
37 having the most fully insured and self-insured covered lives in
38 Washington state. The count of total lives includes enrollment in all

1 companies included in its holding company system. Each health
2 maintenance organization is entitled to no more than a single position
3 on the collaborative to represent all entities under common ownership
4 or control;

5 (c) One member, chosen from among three nominees submitted by the
6 association of Washington health plans, representing national health
7 carriers that operate in multiple states outside of the Pacific
8 Northwest;

9 (d) Two physicians, selected from a list of five nominees submitted
10 by the Washington state medical association, representing large
11 multispecialty clinics from both sides of the Cascade crest;

12 (e) Five members, at least three of whom are physicians, selected
13 from a list of eight nominees submitted by the Washington state
14 hospital association, representing the largest hospital-physician
15 systems in the state;

16 (f) Three members, representing self-funded purchasers of health
17 care services for employees;

18 (g) Two members, representing state purchased health care programs;
19 and

20 (h) One member, representing the Puget Sound health alliance.

21 (5) The governor shall appoint the chair of the collaborative.

22 (6) The collaborative shall add members to its membership or
23 establish clinical committees on an ad hoc basis for the purpose of
24 acquiring clinical expertise needed to accomplish its responsibilities
25 under this section and RCW 70.250.010 and 70.250.030. Membership of
26 clinical committees should reflect clinical expertise in the area of
27 health care services being addressed by the collaborative, including
28 clinicians involved in related quality improvement or comparative
29 effectiveness efforts, as well as nonphysician practitioners.

30 (7) Permanent and ad hoc members of the collaborative or any of its
31 committees may not have personal financial conflicts of interest that
32 could substantially influence or bias their participation. If a
33 collaborative or committee member has a personal financial conflict of
34 interest with respect to a particular health care service being
35 addressed by the collaborative, he or she shall disclose such an
36 interest. The collaborative must determine whether the member should
37 be recused from any deliberations or decisions related to that service.

1 (8) The collaborative shall actively solicit federal or private
2 funds and in-kind contributions necessary to complete its work in a
3 timely fashion. Available state funds may be used to support the work
4 of the collaborative when the collaborative has selected a health care
5 service that is a high utilization or high-cost service in state
6 purchased health care programs or the health care service is undergoing
7 evaluation in one or more state purchased health care programs and
8 coordination will reduce duplication of efforts. The collaborative
9 shall not begin the work described in this section unless sufficient
10 funds are received from private or federal resources, or available
11 state funds.

12 (9) No member of the collaborative or its committees may be
13 compensated for his or her service.

14 (10) The proceedings of the collaborative shall be open to the
15 public and notice of meetings shall be provided at least ten days prior
16 to a meeting.

17 (11) The collaborative shall report to the governor and legislature
18 regarding the health services areas it has chosen, strategies adopted,
19 and available information related to the impact of strategies adopted
20 in the previous three years on the cost and quality of care provided in
21 Washington state. The initial report must be submitted by November 15,
22 2011, with annual reports thereafter.

23 **Sec. 4.** RCW 70.250.030 and 2009 c 258 s 3 are each amended to read
24 as follows:

25 (1) No later than September 1, 2009, all state purchased health
26 care programs shall, except for state purchased health care services
27 that are purchased from or through health carriers as defined in RCW
28 48.43.005, implement evidence-based best practice guidelines or
29 protocols applicable to advanced diagnostic imaging services, and the
30 decision support tools to implement the guidelines or protocols,
31 identified under ((RCW 70.250.020)) section 3 of this act.

32 (2) By January 1, 2012, and every January 1st thereafter, all state
33 purchased health care programs must implement the evidence-based best
34 practice guidelines or protocols and strategies identified under
35 section 3 of this act. This requirement applies to health carriers, as
36 defined in RCW 48.43.005 and to entities acting as third-party

1 administrators that contract with state purchased health care programs
2 to provide or administer health benefits for enrollees of those
3 programs.

4 NEW SECTION. **Sec. 5.** RCW 70.250.020 (Work group--Members--
5 Duties--Report--Expiration of work group) and 2009 c 258 s 2 are each
6 repealed.

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