
HOUSE BILL 1311

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Cody, Jinkins, Bailey, Green, Clibborn, Appleton, Moeller, Frockt, Seaquist, and Dickerson

Read first time 01/18/11. Referred to Committee on Health Care & Wellness.

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 new
4 sections to chapter 70.250 RCW; creating a new section; repealing RCW
5 70.250.020; and declaring an emergency.

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

20 The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

22 (1) "Advanced diagnostic imaging services" means magnetic resonance
23 imaging services, computed tomography services, positron emission
24 tomography services, cardiac nuclear medicine services, ultrasound, and
25 similar new imaging services.

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

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

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

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

1 (~~(+5)~~) (6) "State purchased health care" has the same meaning as
2 in RCW 41.05.011.

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

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

14 (2) For each health care service identified, the collaborative
15 shall:

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

23 (b) Identify strategies to increase use of the evidence-based
24 practice approaches identified under (a) of this subsection in both
25 state purchased and privately purchased health care plans. Strategies
26 considered should include, but are not limited to: Identifying goals
27 for appropriate utilization rates and reduction in practice variation
28 among providers; peer-to-peer consultation or second opinions; provider
29 feedback reports; use of patient decision aids; reimbursement
30 methodology changes; performance-based payment methodologies; clinical
31 service authorization criteria; centers of excellence or other provider
32 qualification standards; quality improvement systems; and service
33 utilization and outcomes reporting, including public reporting. In
34 developing strategies, the collaborative is encouraged to build its
35 efforts upon similar efforts of the Puget Sound health alliance and the
36 foundation for quality.

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

8 (4) The administrator of the authority shall appoint eight members
9 of the collaborative, who must include:

10 (a) Three representatives of health carriers as defined in RCW
11 48.43.005, at least one of whom also serves as a third-party
12 administrator for a self-funded employer sponsored health plan. The
13 representatives must be chosen from among five nominees submitted by
14 the association of Washington health plans;

15 (b) Three physicians, at least one of whom is formally affiliated
16 with a hospital system, chosen from among five nominees submitted by
17 the Washington state medical association;

18 (c) The medical director of the medical assistance program; and

19 (d) The medical director of the department of labor and industries.

20 (5) The governor shall appoint an additional member of the
21 collaborative who must serve as the chair of the collaborative.

22 (6) The collaborative may add additional members to its membership
23 or establish clinical subcommittees on an ad hoc basis for the purpose
24 of acquiring clinical expertise needed to accomplish the
25 responsibilities designated under this act.

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

34 (8) The collaborative shall actively solicit federal or private
35 funds and in-kind contributions necessary to complete its work in a
36 timely fashion. No member of the collaborative or its subcommittees
37 may be compensated for his or her service.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.250 RCW
2 to read as follows:

3 (1) As part of its initial efforts, and by September 1, 2011, the
4 collaborative shall:

5 (a) Identify goals for the reduction in the rate of cesarean
6 section deliveries and early induction of labor prior to thirty-nine
7 weeks gestation in Washington state. In choosing goals, the
8 collaborative shall rely upon measures identified by the United States
9 department of health and human services healthy people 2010, the
10 national quality forum, or other nationally recognized health care
11 quality standard setting entities;

12 (b) Identify high quality evidence-based practice guidelines and
13 protocols that when used effectively, will bring practice patterns in
14 Washington state closer to the goals identified under (a) of this
15 subsection; and

16 (c) Develop a multifaceted strategy to increase use of the
17 guidelines and protocols identified under (b) of this subsection in
18 both state purchased and privately purchased health care plans, which
19 may include, but are not limited to, provider specific reporting of
20 cesarean section and early induction rates, public reporting of
21 hospital cesarean section and early induction rates, peer review or
22 second opinions, and payment methodology incentives.

23 (2)(a) As part of its initial efforts, and by January 1, 2012, the
24 collaborative shall:

25 (i) Identify evidence-based practice guidelines and protocols that,
26 when used effectively, will improve the treatment of back pain in
27 Washington state; and

28 (ii) Develop a multifaceted strategy to increase use of the
29 guidelines and protocols identified under (a) of this subsection in
30 both state purchased and privately purchased health care plans, which
31 may include, but are not limited to: Development of evidence-based
32 quality indicators of care through formal focus groups of expert
33 clinical and academic clinicians; assessment of and potential
34 development of financial and nonfinancial incentive systems to increase
35 use of guidelines, protocols, and quality indicators of care identified
36 under this subsection; identification of the best quality metrics to
37 determine outcomes of evidence-based best practice care for low back
38 pain, including but not limited to use of metrics representing minimum

1 clinically important outcomes; identification of best available
2 evidence-based methods to coordinate and integrate care for persons
3 with acute, subacute, and chronic low back pain; identification of
4 potential methods to enhance delivery of evidence-based back pain care
5 in community-based settings using interdisciplinary health services;
6 and identification and development of pilot, web-based methods to track
7 population-based outcomes and timely feedback of outcome information to
8 health care providers to improve quality.

9 (b) Considering the high variation in use, poor outcomes in some
10 Washington state populations, the likelihood of reoperation and other
11 adverse outcomes, and the cost of complex spinal surgery such as spinal
12 fusion, the strategy identified in (a)(ii) of this subsection may also
13 include a comparative effectiveness outcome study of spinal surgery,
14 including lumbar fusion surgery for chronic back pain. This study may
15 include participation of state purchased health care programs and
16 private health plans. For the purposes of this study, participation of
17 each spine surgery patient who meet study criteria and each requesting
18 physician may be required as a condition of coverage for the surgery.
19 The study per se, as an observational study, could include collection
20 of data pertaining to baseline and follow-up health outcomes, adverse
21 events, and costs, but would not itself mandate any additional
22 treatments or interventions. All study procedures for this study must
23 be approved by an institutional review board prior to the start of the
24 study. Funding for this study must be obtained from nongeneral fund
25 state sources.

26 (3) The collaborative shall report its findings and recommendations
27 related to cesarean section and elective induction of labor to the
28 governor and the appropriate committees of the legislature by September
29 1, 2011.

30 (4) The collaborative shall report its findings and recommendations
31 related to the treatment of back pain to the governor and appropriate
32 committees of the legislature by January 1, 2012.

33 (5) The collaborative shall report its findings and recommendations
34 related to additional health services areas to the governor and
35 appropriate committees of the legislature by January 1st of each
36 succeeding year.

1 **Sec. 5.** RCW 70.250.030 and 2009 c 258 s 3 are each amended to read
2 as follows:

3 (1) No later than September 1, 2009, all state purchased health
4 care programs shall, except for state purchased health care services
5 that are purchased from or through health carriers as defined in RCW
6 48.43.005, implement evidence-based best practice guidelines or
7 protocols applicable to advanced diagnostic imaging services, and the
8 decision support tools to implement the guidelines or protocols,
9 identified under ((RCW 70.250.020)) section 3 of this act.

10 (2) By January 1, 2012, all state purchased health care programs
11 must implement the evidence-based practice guidelines or protocols and
12 strategies identified under section 4 (1) and (2) of this act. If the
13 collaborative fails to reach consensus within the time frames
14 identified in this section and section 4 of this act, state purchased
15 health care programs may pursue implementation of evidenced-based
16 strategies on their own initiative.

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

20 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of the
22 state government and its existing public institutions, and takes effect
23 immediately.

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