S-0924.1

SENATE BILL 5640

State of Washington 62nd Legislature 2011 Regular Session

By Senators Becker, Conway, and Holmquist Newbry

Read first time 02/02/11. Referred to Committee on Health & Long-Term Care.

AN ACT Relating to the health technology assessment program; amending RCW 70.14.090 and 70.14.110; and adding a new section to chapter 70.14 RCW.

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

Sec. 1. RCW 70.14.090 and 2006 c 307 s 2 are each amended to read as follows:

(1)(a) A health technology clinical committee is established, to include the following eleven members appointed by the administrator in consultation with participating state agencies:

((~~(a) Six~~)) (i) Five practicing physicians licensed under chapter 18.57 or 18.71 RCW; ((~~and~~

~~(b)~~)) (ii) Five other practicing licensed health professionals who use health technology in their scope of practice; and

(iii) One member who shall rotate according to the technology under review by the committee pursuant to RCW 70.14.110.

(b) At least two members of the committee must have professional experience treating women, children, elderly persons, and people with diverse ethnic and racial backgrounds.

(c) At least two members shall have experience with evidence-based medicine, clinical research, or technology assessment.

(d) The rotating member shall: Be a practicing physician who regularly uses the technology under review in the care and treatment of patients; be board-certified, if applicable, in the therapy under review; and shall serve as a voting member of the committee during its review and coverage determination for that technology. Except where no available nominations are received, the rotating member shall be appointed from nominations solicited by the administrator as follows:

(i) Upon finalizing the list of health technologies to be reviewed by the committee under RCW 70.14.110, the administrator shall publish a notice soliciting at least two nominations from the relevant specialty medical societies for the technologies subject to review.

(ii) The most relevant medical societies may be Washington state-based or a state chapter of a relevant national society. National societies may also submit names for a rotating member for a particular technology.

(iii) The administrator shall receive nominations for at least thirty days following publication of the notice required by this subsection.

(2) Members of the committee:

(a) Shall not contract with or be employed by a health technology manufacturer or a participating agency during their term or for eighteen months before their appointment. As a condition of appointment, each person shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest except that the rotating member shall disclose such relationship but shall not be disqualified so long as the rotating member suspends any financial relationship during the term of the review of the technology;

(b) Are immune from civil liability for any official acts performed in good faith as members of the committee; and

(c) Shall be compensated for participation in the work of the committee in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the committee.

(3) Meetings of the committee and any advisory group are subject to chapter 42.30 RCW, the open public meetings act, including RCW

42.30.110(1)(l), which authorizes an executive session during a regular or special meeting to consider proprietary or confidential nonpublished information.

(4) Neither the committee nor any advisory group is an agency for purposes of chapter 34.05 RCW.

(5) The health care authority shall provide administrative support to the committee and any advisory group, and may adopt rules governing their operation.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70.14 RCW to read as follows:

The administrator shall provide the following minimum opportunities for public comment:

(1) Before any health technology can be selected for review or rereview, there shall be a thirty-day public comment period once a year during which, interested parties shall be encouraged to comment on the need for the review of a specific technology. The thirty-day period shall commence with publication of a detailed explanation of the technology under consideration and the rationale for its selection. The administrator shall make every reasonable effort to solicit comments from appropriate medical, patient, and disease organizations for each technology subject to review.

(2) Upon the publication of the draft key questions to be used by the evidence reviewer for each health technology, there shall be a thirty-day comment period including a publicly accessible conference call with interested stakeholders to discuss the merits of each key question for the specific technology.

(3) Upon the publication of the final key questions, there shall be a thirty-day comment period to allow stakeholders the opportunity to submit any evidence that may be of use in the assessment and any studies that are currently underway.

(4) Upon publication of the draft assessment report for any health technology, there shall be a thirty-day comment period. All comments submitted during this period shall be submitted to the evidence reviewer for timely consideration before publication of the final report.

(5) Upon publication of the final report, there shall be a fifteen-

day comment period. Any evidence-based comments received during the period shall be provided to the committee members at least fifteen days in advance of the meeting where the technology will be considered.

(6) Upon publication of the draft findings and decision by the committee on any technology, there shall be a thirty-day comment period. All comments shall be provided to the committee members at least fifteen days in advance of the next meeting.

(7) After the presentation by the agency medical directors and the evidence reviewer, there shall be an opportunity for public testimony at committee meetings for each technology scheduled for review. Organizations and experts who request time for testimony in advance of the meeting, subject only to overall standard public testimony time limitations, shall be allowed a minimum of ten minutes for their presentation and should be notified thirty days in advance of their time allocation and approximate time on the agenda. Where applicable, medical or patient societies that agree to conduct a coordinated presentation, the presentation shall be allocated a minimum of twenty minutes.

Sec. 3. RCW 70.14.110 and 2006 c 307 s 4 are each amended to read as follows:

(1) The committee shall determine, for each health technology selected for review under RCW 70.14.100: (a) The conditions, if any, under which the health technology will be included as a covered benefit in health care programs of participating agencies; and (b) if covered, the criteria which the participating agency administering the program must use to decide whether the technology is medically necessary, or proper and necessary treatment.

(2) In making a determination under subsection (1) of this section, the committee:

(a) Shall consider, in an open and transparent process, evidence regarding the safety, efficacy, ((~~and~~)) cost-effectiveness, and clinical practice patterns of the technology as set forth in the systematic assessment conducted under RCW 70.14.100(4);

(b) Shall provide an opportunity for public comment; and

(c) May establish ad hoc temporary advisory groups if specialized expertise is needed to review a particular health technology or group of health technologies, or to seek input from enrollees or clients of

state purchased health care programs. Advisory group members are immune from civil liability for any official act performed in good faith as a member of the group. As a condition of appointment, each person shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest.

(3) Determinations of the committee under subsection (1) of this section shall be consistent with decisions made under the federal medicare program and ((~~in~~)) with evidence-based expert treatment guidelines((~~, including those~~)) from national specialty physician organizations and patient advocacy organizations, unless the committee concludes, based on its review of the systematic assessment, that substantial evidence regarding the safety, efficacy, and cost-effectiveness of the technology supports a contrary determination. The committee shall issue a written report when medicare decisions or expert treatment guidelines are not followed and shall cite the specific evidence and reasons for not following those decisions or guidelines.

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