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SENATE BILL 5845

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Becker, Dammeier, Bailey, Litzow, Braun, Schoesler, Holmquist Newbry, Smith, Fain, Ericksen, Rivers, Hill, Carrell, Honeyford, Benton, Pearson, Sheldon, King, Parlette, and Hewitt

Read first time 02/21/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to attorney compensation; adding a new chapter to  
2 Title 2 RCW; prescribing penalties; and providing an effective date.

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

4 NEW SECTION. **Sec. 1.** This act shall be known and cited as the  
5 professional compensation parity act.

6 NEW SECTION. **Sec. 2.** The legislature recognizes the importance of  
7 providing quality professional services to those who are unable to  
8 afford them. Professional persons have attained a privileged position  
9 in society and have an ethical, moral, and legal duty to provide their  
10 services at a significantly reduced rate for those clients or patients  
11 who may be of limited means. For indigent persons, insurance may not  
12 be a luxury or may not cover all or any of the costs associated with  
13 the professional services rendered. The notion of a just and civilized  
14 society demands that much is required of those to whom much has been  
15 given.

16 While the medical profession has for many years been required under  
17 federal and state law, including chapter 70.170 RCW, to scale the fees  
18 demanded for services according to the capacity of the patient to pay,

1 there have been no similar requirements for the legal profession.  
2 Lawyers are able to routinely demand hourly fees well in excess of the  
3 capacity of their clients to pay. These clients often have no  
4 insurance to cover fees and costs which can quickly amount to thousands  
5 of dollars. Even those attorneys who provide legal services on a  
6 contingency basis effectively take thousands of dollars out of the  
7 pockets of those most deserving and in need of resources. It is the  
8 intent of the legislature to correct the disparate fee structure  
9 between professionals in the legal and medical professions.

10 NEW SECTION. **Sec. 3.** (1) Notwithstanding any provision of law to  
11 the contrary, all attorneys licensed to practice law in the state of  
12 Washington and any law firm doing business in the state of Washington  
13 must charge an indigent person a fee for services which is based upon  
14 the sliding fee schedule for determination of discounts from charges  
15 for persons who qualify for such discounts developed by the Washington  
16 state bar association.

17 (2) No law firm, its legal staff, or any attorney licensed to  
18 practice law in the state of Washington may adopt or maintain client  
19 screening practices or policies which result in:

20 (a) A significant reduction in the proportion of clients who are  
21 unable to pay for legal services;

22 (b) A significant reduction in the proportion of individuals  
23 referred or requesting legal services for which payment is, or is  
24 likely to be, less than the anticipated charges for or costs of such  
25 services; or

26 (c) The refusal to accept clients who are expected to require  
27 unusually costly or prolonged cases for reasons other than those  
28 related to the appropriateness of the legal services available at the  
29 law firm or by the attorney.

30 (3) No law firm or attorney may adopt or maintain practices or  
31 policies which deny access to legal services based on a person's  
32 ability to pay.

33 (4) No law firm or attorney may refer a client with an active case  
34 in which litigation is pending in a court unless the referral is  
35 performed at the request of the client or is due to the limited  
36 resources of the transferring law firm or attorney. Law firms or

1 attorneys must follow reasonable procedures in making referrals to  
2 other law firms or attorneys, including requiring a confirmation of  
3 acceptance of the referral by the receiving law firm or attorney.

4 (5) For the purpose of providing indigent legal representation,  
5 each law firm or attorney must develop, implement, and maintain an  
6 indigent representation policy which, consistent with this chapter,  
7 enables indigent persons access to appropriate law firm or attorney-  
8 based legal services, provides a sliding fee schedule for determination  
9 of discounts from charges for persons who qualify for such discounts,  
10 and notifies persons who may be eligible for indigent representation.

11 (6) Each law firm or attorney must make every reasonable effort to  
12 determine the existence or nonexistence of private or public  
13 sponsorship which might cover in full or part the charges for legal  
14 services rendered by the law firm or attorney to a client. An initial  
15 determination of sponsorship status must precede collection efforts  
16 directed at the client.

17 (7) For the purposes of this chapter, "indigent person" means any  
18 person with a family income below one hundred thirty-eight percent of  
19 the federal poverty standard. Indigent persons may be discounted the  
20 full amount of attorney fees and costs, provided that such persons are  
21 not eligible for other private or public insurance coverage for legal  
22 services.

23 NEW SECTION. **Sec. 4.** The Washington state bar association must:

24 (1) Develop the sliding fee schedule required in section 3 of this  
25 act. The sliding fee schedule is not effective until thirty days after  
26 the next intervening session of the legislature;

27 (2) Develop definitions by rule, as appropriate, for this chapter;

28 (3) Monitor law firm and attorney compliance with this chapter;

29 (4) Report instances of noncompliance to the state attorney general  
30 or the appropriate federal agency;

31 (5) Develop specific guidelines to assist law firms and attorneys  
32 in setting sliding fee schedules required by this chapter;

33 (6) Monitor the distribution of indigent client representation  
34 among law firms and attorneys, with reference to factors such as the  
35 relative need for indigent representation in court jurisdictions and  
36 trends in private and public insurance coverage for legal services; and

1           (7) Prepare reports that identify any problems in the distribution  
2 of indigent client representation among law firms and attorneys which  
3 are in contradiction of the intent of this chapter. The report must  
4 include an assessment of the effects of the provisions of this chapter  
5 on access to legal services, as well as an evaluation of the  
6 contribution of all purchasers of care to indigent legal  
7 representation.

8           NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute  
9 a new chapter in Title 2 RCW.

10           NEW SECTION. **Sec. 6.** This act takes effect August 1, 2013.

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