

SENATE BILL REPORT

ESSB 5557

As Amended by House, April 14, 2015

Title: An act relating to services provided by pharmacists.

Brief Description: Addressing services provided by pharmacists.

Sponsors: Senate Committee on Health Care (originally sponsored by Senators Parlette, Conway, Rivers, Dammeier, Becker, Frockt, Schoesler, Keiser, Jayapal, Warnick and Honeyford).

Brief History:

Committee Activity: Health Care: 2/12/15, 2/19/15 [DPS].

Passed Senate: 3/02/15, 48-0.

Passed House: 4/14/15, 93-4.

SENATE COMMITTEE ON HEALTH CARE

Majority Report: That Substitute Senate Bill No. 5557 be substituted therefor, and the substitute bill do pass.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Frockt, Ranking Minority Member; Angel, Bailey, Brown, Cleveland, Conway, Jayapal, Keiser, Parlette and Rivers.

Staff: Mich'l Needham (786-7442)

Background: The 1995 Legislature created the requirement for all health plans to permit every category of health care provider to provide health services included in the Basic Health Plan services. The health care services must be within the scope of practice for the provider and the providers must agree to health plan standards on such areas as the provision of care, utilization review, cost containment, management and administrative procedures, and the provision of cost-effective and clinically efficacious care.

In general, pharmacists have not been included in health plan networks while health plans have contracted with pharmacies or pharmacy benefit managers. A 2013 Attorney General Opinion confirmed that pharmacists are health care providers and must be compensated for services included in the Basic Health Plan and within their scope of practice if the pharmacist agrees to the stated standards of the health plan. Pharmacists are regulated under RCW 18.64 and are permitted to provide health care services such as drug therapy management and other services beyond the dispensing of drugs or devices.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Basic Health Plan was a state-sponsored health program that was discontinued with the Medicaid expansion. The covered services included physician services, inpatient and outpatient hospital services, prescription drugs and medications, chemical dependency services, mental health services, organ transplant services, all services necessary for prenatal, postnatal, and well-child care, and wellness, smoking cessation, and chronic disease management.

The federal Affordable Care Act established requirements for individual and small group health plans to cover essential health benefits, which reflect ten general categories of care: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance abuse disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services including oral and vision care.

Summary of Engrossed Substitute Bill: Health plans must not deny any health care service performed by a pharmacist if the service is within the pharmacist scope of practice, the plan would have provided benefits if the service had been performed by a physician, advanced registered nurse practitioner, or physician assistant, and the pharmacist is included in the plan's network of participating providers.

The participation of pharmacies in the plan network's drug benefit does not satisfy the requirement that plans include pharmacists in their networks.

Health plans must permit every category of health provider to provide services included in the ten categories of care required in the essential health benefits benchmark plan, if the provider agrees to the health plan standards. The reference to the essential health benefits does not create a mandate to cover a service that is otherwise not a covered benefit.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee:

PRO: A group of legislators signed a letter to the Attorney General (AG) asking for an opinion on pharmacists and every category of provider law. The results came in 2013 and the AG confirmed pharmacists should be paid for their health care services. This bill has been well worked and it is time to make the change for pharmacists. Since 1995 every category of provider law passed, pharmacists have seen thousands of patients and provided thousands of health care services but they have been unable to be paid for these services. The safety-net clinics I work with are interested in allowing pharmacists to help with the chronic care needs of patients, but they cannot hire the pharmacists if they can't bill for the services. Pharmacists are a critical part of the health care team, managing patient care on behalf, or

instead, of physicians. The care management helps keep patients healthy and keeps them out of the hospital. The pharmacists can fill a gap for patient needs in areas such as education, diabetic management, chronic care management, and long-term antibiotic monitoring but there is no mechanism to ensure they are paid for these services. Insurance plans routinely deny credentialing opportunities. Nearly half of licensed pharmacists are part of a health care team that provides more care than dispensing. Every category of provider law protects patient access to services but it is time to clean up the loophole in the law and allow better use of pharmacists to serve patient needs. Problems with medication management are a leading cause of hospitalization with older patients. Pharmacists can help monitor patients and avoid hospitalizations. This is an essential step to advance the services of pharmacists and allow reimbursement for services that keep people out of the hospital and help avoid unnecessary readmissions.

OTHER: We agree that pharmacists provide a valuable service for our members. The bill would require us to create new networks and credential pharmacist which could be very costly. We believe it is important to ensure the services are coordinated with physicians and not duplicate services. We have a suggestion to use an agreement similar to a collaborative drug therapy agreement that would allow pharmacists and other providers to set in agreement which services are allowed and not duplicated and that would allow reimbursement without having to credential a new network.

Persons Testifying: PRO: Senator Parlette, prime sponsor; Jeff Rochon, WA State Pharmacy Assn.; Don Downing, University of WA School of Pharmacy; Jenny Arnold, John Swenson, pharmacists; Ian Corbridge, WA State Hospital Assn.

OTHER: Len Sorrin, Premera; Chris Bandoli, Regence.

House Amendment(s):

- Full implementation of the pharmacist requirement is delayed until the 2017 plan year – from 2016;
- Beginning 2017, health plans are required to include an adequate number of pharmacists in their networks of participating medical providers;
- For the 2016 plan year, health plans that delegate credentialing agreements to contracted health care facilities must accept credentialing for pharmacists employed or contracted by those facilities. Health plans must reimburse facilities for covered services provided by network pharmacists within the pharmacists' scope of practice per negotiations with the facility;
- Removes the requirement that large group health plans use a definition of essential health benefits authorized under federal law for purposes of the Every Category of Provider Law, and requires only the services or care in the essential health benefit benchmark plan are subject to the Every Category of Provider Law;
- Requires the Office of Insurance Commissioner to designate a lead organization to establish and facilitate an advisory committee to implement the provisions dealing with reimbursement for pharmacist services. By December 1, 2015, the lead organization and advisory committee must develop best practice recommendations on standards for credentialing privileging, billing, and payment processes. The Office of Insurance

Commissioner and the Department of Health may adopt rules that reflect the recommendations developed by the advisory committee.