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HOUSE BILL 1474

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Farrell, Riccelli, Cody, Bergquist, Appleton, Tarleton, Fitzgibbon, Frame, Jenkins, Robinson, Senn, Kilduff, Ormsby, Pollet, Goodman, Slatter, Blake, Peterson, Hudgins, Macri, Orwall, Doglio, and Stanford

Read first time 01/20/17. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to promoting healthy outcomes for pregnant women  
2 and infants; amending RCW 49.60.230 and 74.09.480; adding a new  
3 section to chapter 74.09 RCW; adding a new section to chapter 49.60  
4 RCW; adding a new section to chapter 43.70 RCW; creating a new  
5 section; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the state  
8 has an interest in assuring that children are given the opportunity  
9 to have a healthy start in life. Because approximately half of all  
10 births in Washington state are funded by state resources, and over  
11 eight hundred thousand children in Washington state are enrolled in  
12 the apple health program, the state is in a unique position to make a  
13 difference in the health of children in Washington.

14 (2) The legislature also finds that there may be gaps in programs  
15 that could greatly benefit children. Where programs may benefit  
16 children in their early stages of development, the state must assure  
17 they receive these benefits. Where children are not receiving  
18 services because the public is unaware of the services, opportunities  
19 for outreach must be explored.

20 (3) The legislature additionally finds that several hospitals  
21 have begun adopting the best practices of the baby-friendly hospital

1 initiative. The state can use its resources to encourage hospitals to  
2 adopt some of the most critical components by incorporating the  
3 standards into medicaid contracts.

4 (4) The legislature further finds that providing children with a  
5 healthy start also requires promoting healthy pregnancies. In one  
6 national survey, pregnant workers said they needed more frequent  
7 breaks while pregnant. Prenatal care is also critical for positive  
8 birth outcomes, and pregnant women have cited the need for  
9 flexibility in their work schedule for the purposes of attending  
10 doctor visits. Reasonable accommodations for pregnant women in the  
11 workplace can go a long way to promoting healthy pregnancies without  
12 producing an undue hardship on employers.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09  
14 RCW to read as follows:

15 (1) Effective January 1, 2018, the authority shall require that  
16 all health care facilities that provide newborn delivery services to  
17 medical assistance clients establish policies and procedures to  
18 provide:

19 (a) Skin-to-skin placement of the newborn on the mother's chest  
20 immediately following birth to promote the initiation of  
21 breastfeeding, except as otherwise indicated by authority guidelines;  
22 and

23 (b) Room-in practices in which a newborn and a mother share the  
24 same room for the duration of their postdelivery stay at the  
25 facility, except as otherwise indicated by authority guidelines.

26 (2) The authority shall provide guidelines for hospitals to use  
27 when establishing policies and procedures for services under  
28 subsection (1) of this section, including circumstances in which  
29 providing the services is not appropriate.

30 (3) The authority shall require managed care organizations to  
31 report on the frequency with which each facility they contract with  
32 is able to adhere to the policies and procedures and the most common  
33 reasons for nonadherence. The authority shall include a summary of  
34 this information in the biennial report required under RCW  
35 74.09.480(3).

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.60  
37 RCW to read as follows:

1 (1) The definitions in this subsection apply throughout this  
2 section unless the context clearly requires otherwise.

3 (a) "Pregnancy" includes the employee's pregnancy and pregnancy-  
4 related health conditions, including the need to express breast milk.

5 (b) "Reasonable accommodation" means measures that enable the  
6 proper performance of the particular job held or desired and enable  
7 the enjoyment of equal benefits, privileges, or terms and conditions  
8 of employment. "Reasonable accommodation" includes, but is not  
9 limited to:

10 (i) Providing more frequent, longer, or flexible restroom breaks;

11 (ii) Modifying a no food or drink policy;

12 (iii) Acquiring or modifying equipment or an employee's work  
13 station;

14 (iv) Providing seating or allowing the employee to sit more  
15 frequently if her job requires her to stand;

16 (v) Providing for a temporary transfer to a less strenuous or  
17 less hazardous position;

18 (vi) Providing assistance with manual labor; and

19 (vii) Modifying work schedules.

20 (2) It is an unfair practice for any employer to:

21 (a) Fail or refuse to make reasonable accommodation for an  
22 employee for pregnancy, unless the employer can demonstrate that  
23 doing so would impose an undue hardship on the employer's program,  
24 enterprise, or business;

25 (b) Take adverse action against an employee who requests or uses  
26 an accommodation under this section that affects the terms,  
27 conditions, or privileges of employment;

28 (c) Deny employment opportunities to an otherwise qualified  
29 employee if such denial is based on the employer's need to make  
30 reasonable accommodation required by this section;

31 (d) Require an employee to take leave if another reasonable  
32 accommodation can be provided for the employee's pregnancy; or

33 (e) Require an employee requesting reasonable accommodation for  
34 pregnancy to accept an accommodation that the employee chooses not to  
35 accept.

36 (3) An employer may request that the employee provide written  
37 certification from her treating health care professional regarding  
38 the need for reasonable accommodation.

39 (4)(a) This section does not require an employer to create  
40 additional employment that the employer would not otherwise have

1 created, unless the employer does so or would do so for other classes  
2 of employees who need accommodation.

3 (b) This section does not require an employer to discharge any  
4 employee, transfer any employee with more seniority, or promote any  
5 employee who is not qualified to perform the job, unless the employer  
6 does so or would do so to accommodate other classes of employees who  
7 need accommodation.

8 (5) The attorney general shall investigate complaints and enforce  
9 this section. In addition to the complaint process with the attorney  
10 general, any person believed to be injured by a violation of this  
11 section has a civil cause of action in court to enjoin further  
12 violations, or to recover the actual damages sustained by the person,  
13 or both, together with the cost of suit and reasonable attorneys'  
14 fees or any other appropriate remedy authorized by state or federal  
15 law.

16 (6) This section does not preempt, limit, diminish, or otherwise  
17 affect any other provision of law relating to sex discrimination or  
18 pregnancy, or in any way diminish or limit legal protections or  
19 coverage for pregnancy.

20 **Sec. 4.** RCW 49.60.230 and 2008 c 266 s 7 are each amended to  
21 read as follows:

22 (1) Who may file a complaint:

23 (a) Except as provided in subsection (3) of this section, any  
24 person claiming to be aggrieved by an alleged unfair practice may,  
25 personally or by his or her attorney, make, sign, and file with the  
26 commission a complaint in writing under oath or by declaration. The  
27 complaint shall state the name of the person alleged to have  
28 committed the unfair practice and the particulars thereof, and  
29 contain such other information as may be required by the commission.

30 (b) Whenever it has reason to believe that any person has been  
31 engaged or is engaging in an unfair practice, the commission may  
32 issue a complaint.

33 (c) Any employer or principal whose employees, or agents, or any  
34 of them, refuse or threaten to refuse to comply with the provisions  
35 of this chapter may file with the commission a written complaint  
36 under oath or by declaration asking for assistance by conciliation or  
37 other remedial action.

38 (2) Any complaint filed pursuant to this section must be so filed  
39 within six months after the alleged act of discrimination except that

1 complaints alleging an unfair practice in a real estate transaction  
2 pursuant to RCW 49.60.222 through 49.60.225 must be so filed within  
3 one year after the alleged unfair practice in a real estate  
4 transaction has occurred or terminated and a complaint alleging  
5 whistleblower retaliation must be filed within two years.

6 (3) Complaints alleging an unfair practice under section 3 of  
7 this act must be filed with the attorney general.

8 **Sec. 5.** RCW 74.09.480 and 2011 1st sp.s. c 15 s 22 are each  
9 amended to read as follows:

10 (1) The authority, in collaboration with the department of  
11 health, department of social and health services, health carriers,  
12 local public health jurisdictions, children's health care providers  
13 including pediatricians, family practitioners, and pediatric  
14 subspecialists, community and migrant health centers, parents, and  
15 other purchasers, shall establish a concise set of explicit  
16 performance measures that can indicate whether children enrolled in  
17 the program are receiving health care through an established and  
18 effective medical home, and whether the overall health of enrolled  
19 children is improving. Such indicators may include, but are not  
20 limited to:

21 (a) Childhood immunization rates;

22 (b) Well child care utilization rates, including the use of  
23 behavioral and oral health screening, and validated, structured  
24 developmental screens using tools, that are consistent with  
25 nationally accepted pediatric guidelines and recommended  
26 administration schedule, once funding is specifically appropriated  
27 for this purpose;

28 (c) Care management for children with chronic illnesses;

29 (d) Emergency room utilization;

30 (e) Visual acuity and eye health;

31 (f) Preventive oral health service utilization; and

32 (g) Children's mental health status. In defining these measures  
33 the authority shall be guided by the measures provided in RCW  
34 71.36.025.

35 Performance measures and targets for each performance measure  
36 must be established and monitored each biennium, with a goal of  
37 achieving measurable, improved health outcomes for the children of  
38 Washington state each biennium.

1 (2) Beginning in calendar year 2009, targeted provider rate  
2 increases shall be linked to quality improvement measures established  
3 under this section. The authority, in conjunction with those groups  
4 identified in subsection (1) of this section, shall develop  
5 parameters for determining criteria for increased payment,  
6 alternative payment methodologies, or other incentives for those  
7 practices and health plans that incorporate evidence-based practice  
8 and improve and achieve sustained improvement with respect to the  
9 measures.

10 (3) The department shall provide a report to the governor and the  
11 legislature related to provider performance on these measures, as  
12 well as the information collected under section 2 of this act,  
13 beginning in September 2010 for 2007 through 2009 and the authority  
14 shall provide the report biennially thereafter.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.70  
16 RCW to read as follows:

17 (1) The healthy pregnancy advisory committee is established to  
18 develop a strategy for improving maternal and infant health outcomes.  
19 The advisory committee shall conduct its activities in consultation  
20 with the maternal mortality review panel established in RCW 70.54.450  
21 and an initiative related to improving maternal and infant outcomes  
22 that is established by the largest association representing hospitals  
23 in Washington.

24 (2) The secretary shall appoint up to twenty members to the  
25 advisory committee including experts in maternal and child health,  
26 pediatric primary care providers, public health experts, hospitals  
27 that provide birthing services, health care providers involved in the  
28 care of pregnant women and infants, and representatives of low-income  
29 women, women of color, and immigrant communities. In addition, the  
30 secretary shall designate a representative from the department of  
31 health and invite participation from the health care authority, the  
32 department of social and health services, and the department of early  
33 learning. The secretary's designee shall serve as the chair of the  
34 advisory committee and shall convene the work group.

35 (3) The advisory committee shall develop a strategy to promote  
36 maternal and child health outcomes. The strategy shall consider best  
37 practices that agencies may integrate into their programs to improve  
38 birth outcomes, reduce maternal mortality and morbidity, and reduce  
39 infant mortality. The strategy shall include elements to promote

1 breastfeeding, incentivize the adoption of the baby-friendly  
2 designation by hospitals, and reduce barriers to accessing prenatal  
3 care. The advisory committee shall consider where there may be gaps  
4 in the availability of services that may benefit pregnant women and  
5 infants, such as coverage for lactation consulting, the availability  
6 of smoking cessation programs for persons who are codomiciled with  
7 the pregnant woman or infant, access to fresh fruits and vegetables,  
8 and improved access to dental care for pregnant women.

9 (4) The advisory committee shall submit the strategy to the  
10 legislature and the governor's council for the healthiest next  
11 generation by October 15, 2018.

12 (5) This section expires July 1, 2019.

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