

2SSB 5602 - H COMM AMD

By Committee on Health Care & Wellness

NOT ADOPTED 04/16/2019

1 Strike everything after the enacting clause and insert the
2 following:

3

4 "NEW SECTION. **Sec. 1.** The legislature finds and declares:

5 (1) It is the public policy of this state to provide the maximum
6 access to reproductive health care and reproductive health care
7 coverage for all people in Washington state.

8 (2) In 2018, the legislature passed Substitute Senate Bill No.
9 6219. Along with reproductive health care coverage requirements, the
10 bill mandated a literature review of barriers to reproductive health
11 care. As documented by the report submitted to the legislature on
12 January 1, 2019, young people, immigrants, people living in rural
13 communities, transgender and gender nonconforming people, and people
14 of color still face significant barriers to getting the reproductive
15 health care they need.

16 (3) Immigrants in Washington state are a vital contributor to
17 the culture, economy, and life of the people of Washington. Yet
18 federal law prohibits some immigrants, who would otherwise be
19 eligible for medical coverage, from receiving the health benefits
20 and timely access to health care provided through federally funded
21 coverage programs.

22 (4) This lack of coverage negatively affects the reproductive
23 health, family planning, and reproductive autonomy of excluded
24 immigrants living in Washington state.

25 (5) Washingtonians who are transgender and gender nonconforming
26 have important reproductive health care needs as well. These needs
27 go unmet when, in the process of seeking care, transgender and

1 gender nonconforming people are stigmatized or are denied critical
2 health services because of their gender identity or expression.

3 (6) The literature review mandated by Substitute Senate Bill No.
4 6219 found that, "[a]ccording to 2015 U.S. Transgender Survey data,
5 thirty-two percent of transgender respondents in Washington State
6 reported that in the previous year they did not see a doctor when
7 needed because they could not afford it."

8 (7) Existing state law should be enhanced to ensure greater
9 coverage of and timely access to reproductive health care for the
10 benefit of all Washingtonians, regardless of immigration status, or
11 gender identity or expression.

12 (8) Because stigma is also a key barrier to access to
13 reproductive health care, all Washingtonians, regardless of gender
14 identity or immigration status, should be free from discrimination
15 in the provision of health care services, health care plan coverage,
16 and in access to publicly funded health coverage.

17 (9) All people should have access to robust reproductive health
18 services to maintain and improve their reproductive health.

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

22 (1) By January 1, 2020, the authority shall administer a program
23 for individuals over nineteen years of age who would be eligible for
24 the Washington state family planning waiver program, currently known
25 as the take charge program, if not for 8 U.S.C. Sec. 1611 or 1612.

26 (2) The program shall provide services identical to those
27 services covered by the Washington state family planning waiver
28 program as of August 2018.

29 (3) The authority shall establish a comprehensive community
30 education and outreach campaign, working with stakeholder and
31 community organizations, to provide culturally and linguistically
32 accessible information to facilitate participation in the program
33 including, but not limited to, enrollment procedures, program
34 services, and benefit utilization.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09
2 RCW to read as follows:

3 (1) In the provision of reproductive health care services
4 through programs under this chapter, the authority, managed care
5 plans, and providers that administer or deliver such services may
6 not discriminate in the delivery of a service provided through a
7 program of the authority based on the covered person's gender
8 identity or expression.

9 (2) The authority and any managed care plans delivering or
10 administering services purchased or contracted for by the authority,
11 may not issue automatic initial denials of coverage for reproductive
12 health care services that are ordinarily or exclusively available to
13 individuals of one gender, based on the fact that the individual's
14 gender assigned at birth, gender identity, or gender otherwise
15 recorded in one or more government-issued documents, is different
16 from the one to which such health services are ordinarily or
17 exclusively available.

18 (3) Denials as described in subsection (2) of this section are
19 prohibited discrimination under chapter 49.60 RCW.

20 (4) The definitions in this subsection apply throughout this
21 section unless the context clearly requires otherwise.

22 (a) "Gender expression" means a person's gender-related
23 appearance and behavior, whether or not stereotypically associated
24 with the person's gender assigned at birth.

25 (b) "Gender identity" means a person's internal sense of the
26 person's own gender, regardless of the person's gender assigned at
27 birth.

28 (c) "Reproductive health care services" means any medical
29 services or treatments, including pharmaceutical and preventive care
30 service or treatments, directly involved in the reproductive system
31 and its processes, functions, and organs involved in reproduction,
32 in all stages of life. Reproductive health care services does not
33 include infertility treatment.

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1 (d) "Reproductive system" includes, but is not limited to:
2 Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

3 (5) This section must not be construed to authorize
4 discrimination on the basis of a covered person's gender identity or
5 expression in the administration of any other medical assistance
6 programs administered by the authority.

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8 **Sec. 4.** RCW 48.43.072 and 2018 c 119 s 2 are each amended to
9 read as follows:

10 (1) A health plan (~~((issued or renewed on or after January 1,~~
11 ~~2019))~~ or student health plan, including student health plans deemed
12 by the insurance commissioner to have a short-term limited purpose
13 or duration or to be guaranteed renewable while the covered person
14 is enrolled as a regular full-time undergraduate or graduate student
15 at an accredited higher education institution, shall provide
16 coverage for:

17 (a) All contraceptive drugs, devices, and other products,
18 approved by the federal food and drug administration, including
19 overthecounter contraceptive drugs, devices, and products, approved
20 by the federal food and drug administration. This includes condoms,
21 regardless of the gender or sexual orientation of the covered
22 person, and regardless of whether they are to be used for
23 contraception or exclusively for the prevention of sexually
24 transmitted infections;

25 (b) Voluntary sterilization procedures;

26 (c) The consultations, examinations, procedures, and medical
27 services that are necessary to prescribe, dispense, insert, deliver,
28 distribute, administer, or remove the drugs, devices, and other
29 products or services in (a) and (b) of this subsection(~~(-)~~);

30 (d) The following preventive services:

31 (i) Screening for physical, mental, sexual, and reproductive
32 health care needs that arise from a sexual assault; and

33 (ii) Well-person preventive visits;

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1 (e) Medically necessary services and prescription medications
2 for the treatment of physical, mental, sexual, and reproductive
3 health care needs that arise from a sexual assault; and

4 (f) The following reproductive health-related over-the-counter
5 drugs and products approved by the federal food and drug
6 administration: Prenatal vitamins for pregnant persons; and breast
7 pumps for covered persons expecting the birth or adoption of a child.

8 (2) The coverage required by subsection (1) of this section:

9 (a) May not require copayments, deductibles, or other forms of
10 cost sharing((τ)):

11 (i) Except for:

12 (A) The medically necessary services and prescription
13 medications required by subsection (1)(e) of this section; and

14 (B) The drugs and products in subsection (1)(f) of this section;
15 or

16 (ii) Unless the health plan is offered as a qualifying health
17 plan for a health savings account. For such a qualifying health
18 plan, the carrier must establish the plan's cost sharing for the
19 coverage required by subsection (1) of this section at the minimum
20 level necessary to preserve the enrollee's ability to claim tax
21 exempt contributions and withdrawals from ((his or her)) the
22 enrollee's health savings account under internal revenue service
23 laws and regulations; and

24 (b) May not require a prescription to trigger coverage of
25 overthecounter contraceptive drugs, devices, and products, approved
26 by the federal food and drug administration, except those
27 reproductive health related drugs and products as set forth in
28 subsection (1)(f) of this section.

29 (3) A health carrier may not deny the coverage required in
30 subsection (1) of this section because an enrollee changed ((his or
31 her)) the enrollee's contraceptive method within a twelve-month
32 period.

33 (4) Except as otherwise authorized under this section, a health
34 benefit plan may not impose any restrictions or delays on the

1 coverage required under this section, such as medical management
2 techniques that limit enrollee choice in accessing the full range of
3 contraceptive drugs, devices, or other products, approved by the
4 federal food and drug administration.

5 (5) Benefits provided under this section must be extended to all
6 enrollees, enrolled spouses, and enrolled dependents.

7 (6) This section may not be construed to allow for denial of
8 care on the basis of race, color, national origin, sex, sexual
9 orientation, gender expression or identity, marital status, age,
10 citizenship, immigration status, or disability.

11 (7) A health plan or student health plan, including student
12 health plans deemed by the insurance commissioner to have a
13 short-term limited purpose or duration or to be guaranteed renewable
14 while the covered person is enrolled as a regular full-time
15 undergraduate or graduate student at an accredited higher education
16 institution, issued or renewed on or after January 1, 2021, may not
17 issue automatic initial denials of coverage for reproductive health
18 care services that are ordinarily or exclusively available to
19 individuals of one gender, based on the fact that the individual's
20 gender assigned at birth, gender identity, or gender otherwise
21 recorded in one or more government-issued documents, is different
22 from the one to which such health services are ordinarily or
23 exclusively available.

24 (8) The definitions in this subsection apply throughout this
25 section unless the context clearly requires otherwise.

26 (a) "Gender expression" means a person's gender-related
27 appearance and behavior, whether or not stereotypically associated
28 with the person's gender assigned at birth.

29 (b) "Gender identity" means a person's internal sense of the
30 person's own gender, regardless of the person's gender assigned at
31 birth.

32 (c) "Reproductive health care services" means any medical
33 services or treatments, including pharmaceutical and preventive care
34 service or treatments, directly involved in the reproductive system

1 and its processes, functions, and organs involved in reproduction,
2 in all stages of life. Reproductive health care services does not
3 include infertility treatment.

4 (d) "Reproductive system" includes, but is not limited to:
5 Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

6 (e) "Well-person preventive visits" means the preventive annual
7 visits recommended by the federal health resources and services
8 administration women's preventive services guidelines, with the
9 understanding that those visits must be covered for women, and when
10 medically appropriate, for transgender, non-binary, and intersex
11 individuals.

12 (9) This section may not be construed to authorize
13 discrimination on the basis of gender identity or expression, or
14 perceived gender identity or expression, in the provision of
15 nonreproductive health care services.

16 (10) The commissioner, under RCW 48.30.300, and the human rights
17 commission, under chapter 49.60 RCW shall share enforcement
18 authority over complaints of discrimination under this section as
19 set forth in RCW 49.60.178.

20 (11) The commissioner may adopt rules to implement this section.
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22 NEW SECTION. Sec. 5. A new section is added to chapter 74.09
23 RCW to read as follows:

24 Beginning January 1, 2021, the authority shall provide coverage
25 under this chapter for:

26 (1) Screening for gonorrhea, chlamydia, syphilis, and human
27 immunodeficiency virus;

28 (2) Pre-exposure prophylaxis and postexposure prophylaxis; and

29 (3) Condoms, regardless of the gender or sexual orientation of
30 the covered person, and regardless of whether they are used for
31 contraception or exclusively for the prevention of sexually
32 transmitted infections.

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1 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.05
2 RCW to read as follows:

3 (1) A health plan offered to employees, school employees, and
4 their covered dependents under this chapter issued or renewed on or
5 after January 1, 2021, shall provide coverage for:

6 (a) Screening for gonorrhea, chlamydia, syphilis, and human
7 immunodeficiency virus;

8 (b) Pre-exposure prophylaxis and postexposure prophylaxis; and

9 (c) Condoms, regardless of the gender or sexual orientation of
10 the covered person, and regardless of whether they are used for
11 contraception or exclusively for the prevention of sexually
12 transmitted infections.

13 (2) The coverage required by this section may not require
14 copayments, deductibles, or other forms of cost sharing, unless the
15 health plan is offered as a qualifying health plan for a health
16 savings account. For such qualifying health plan, the plan's cost
17 sharing for the coverage required by this section must be
18 established at the minimum level necessary to preserve the
19 enrollee's ability to claim tax exempt contributions and withdrawals
20 from the enrollee's health savings account under internal revenue
21 service laws and regulations.

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23 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.43 RCW
24 to read as follows:

25 (1) The legislature intends to codify the state's current
26 practice of requiring health carriers to bill enrollees with a
27 single invoice and to segregate into a separate account the premium
28 attributable to abortion services for which federal funding is
29 prohibited. Washington has achieved full compliance with section
30 1303 of the federal patient protection and affordable care act by
31 requiring health carriers to submit a single invoice to enrollees
32 and to segregate into a separate account the premium amounts
33 attributable to coverage of abortion services for which federal
34 funding is prohibited. Further, section 1303 states that the act

1 does not preempt or otherwise have any effect on state laws
2 regarding the prohibition of, or requirement of, coverage, funding,
3 or procedural requirements on abortions.

4 (2) In accordance with RCW 48.43.073 related to requirements for
5 coverage and funding of abortion services, an issuer offering a
6 qualified health plan must:

7 (a) Bill enrollees and collect payment through a single invoice
8 that includes all benefits and services covered by the qualified
9 health plan; and

10 (b) Include in the segregation plan required under applicable
11 federal and state law a certification that the issuer's billing and
12 payment processes meet the requirements of this section.

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14 NEW SECTION. **Sec. 8.** This act may be known and cited as the
15 reproductive health care access for all act.

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17 NEW SECTION. **Sec. 9.** (1) Sections 2 and 3 of this act take
18 effect January 1, 2020.

19 (2) Section 4 of this act takes effect January 1, 2021.

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21 NEW SECTION. **Sec. 10.** Section 7 of this act is necessary for the
22 immediate preservation of the public peace, health, or safety, or
23 support of the state government and its existing public institutions,
24 and takes effect immediately."

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26 Correct the title.

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EFFECT: Requires health carriers offering a qualified health
plan to bill enrollees and collect payment through a single invoice
that includes all benefits and services covered by the qualified
health plan. Requires that the segregation plans of health carriers
include a certification that the health carrier's billing and
payment processes meet the Office of the Insurance Commissioner's
requirements for the segregation of premiums.

Changes the term "body parts" to "reproductive system" and
eliminates the endocrine system from the definition. Specifies that

the term "reproductive health care services" includes medical services (rather than only medical treatments) which include preventive care services and treatments. Specifies that the term "reproductive health care services" does not include infertility treatment. Specifies that the term "well-person preventive visits" applies to women and, when medically appropriate, to transgender, non-binary, and intersex individuals.

Removes the requirement that health plans and student health plans cover: (1) screening for gonorrhea, chlamydia, syphilis, and human immunodeficiency virus; and (2) pre-exposure prophylaxis and postexposure prophylaxis.

Corrects the statutory location of provisions related to the public employees benefits board and school employees benefits board.

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