HOUSE BILL REPORT
2SHB 2457

As Amended by the Senate

Title: An act relating to the establishment of a board for the evaluation and containment of health care expenditures.

Brief Description: Establishing the health care cost transparency board.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Cody, Kloba, Robinson, Schmick, Tharinger, Macri, Pollet and Wylie).

Brief History:
Committee Activity:
Health Care & Wellness: 1/22/20, 2/5/20 [DPS];
Appropriations: 2/8/20, 2/10/20 [DP2S(w/o sub HCW)].
Floor Activity:
Passed House: 2/17/20, 75-23.
Senate Amended.
Passed Senate: 3/6/20, 32-17.

Brief Summary of Second Substitute Bill

- Establishes the Health Care Cost Transparency Board to annually calculate the total health care expenditures in Washington and establish a health care cost growth benchmark.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, Chopp, Davis, Riccelli, Robinson, Stonier, Thai and Tharinger.

Minority Report: Do not pass. Signed by 1 member: Representative DeBolt.

Minority Report: Without recommendation. Signed by 1 member: Representative Harris.

Staff: Chris Blake (786-7392).

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.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by 24 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chopp, Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Kilduff, Macri, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Tarleton and Tharinger.

Minority Report: Do not pass. Signed by 8 members: Representatives Chandler, Corry, Dye, Hoff, Kraft, Mosbrucker, Sutherland and Ybarra.

Staff: Meghan Morris (786-7119).

Background:

Washington collects information about the cost of health care through several different sources, such as the Statewide All-Payer Health Care Claims Database (APCD), hospital financial reports, insurance rate filings, and prescription drug reports.

The APCD is administered by the Health Care Authority (Authority) with the stated goal of improving transparency to assist in informed decision making, improve health care provider performance, identify value, and promote competition based on quality and cost. The APCD requires health carriers, third-party administrators, and public health care programs to submit health care claims data regarding billed, allowed, and paid amounts. Data in the APCD are available to requesters and the reports are made public on topics that promote awareness and transparency in the health care market.

Hospitals must submit financial data to the Department of Health. Each hospital must report data elements identifying its revenues, expenses, contractual allowances, charity care, bad debt, other income, and total units of inpatient and outpatient care. In addition, certain hospitals must report compensation information regarding specific employees.

Health carriers must annually file all rates and forms with the Office of the Insurance Commissioner. The information must include an estimate of incurred claims; an estimate of prudently incurred expenses; provisions for contribution to surplus, contingency charges, or risk charges; an estimate of forecasted investment earnings on assets; adjustment of the base rate; and actuarial certification.

In 2019 legislation was enacted to require the reporting of certain information to the Authority about the cost of prescription drugs. Health carriers must annually report information such as the 25 most frequently prescribed prescription drugs, the 25 costliest prescription drugs and the plan's total spending on them, and the 25 prescription drugs with the largest annual increase in wholesale acquisition cost. Pharmacy benefit managers must provide information about discounts and rebates received by manufacturers for each drug on their formularies and the total dollar amount of discounts and rebates retained by them. The

Authority publishes an annual report on the overall impact of prescription drug costs on health insurance premiums.

Summary of Second Substitute Bill:

The Health Care Cost Transparency Board (Transparency Board) is established for the purpose of calculating and analyzing information and trends related to health care costs in Washington. The Transparency Board's activities relate to annually calculating total health care expenditures, which is defined as all health care expenditures in the state by private and public sources, including payments on health care providers' claims, other payments to health care providers, cost-sharing paid by residents, and the net cost of private health coverage. The Transparency Board must also annually calculate health care cost growth, statewide, by geographic area, for each health care provider or provider system, for each payer, by market segment, per capita, and for other categories recommended by advisory committees. The term "health care cost growth" means the annual percentage change in total health care expenditures in Washington. In addition, the Transparency Board must annually establish the health care cost growth benchmark for increases in total health expenditures. The "health care cost growth benchmark" is the target percentage for health care cost growth. The Transparency Board must identify health care providers and payers that exceed the health care cost growth benchmark.

The Transparency Board consists of the following 13 members:

- the Insurance Commissioner, or the Commissioner's designee;
- the Administrator of the Health Care Authority (Authority), or the Administrator's designee;
- the Secretary of Labor Industries, or the Secretary's designee;
- the Chief Executive Officer (CEO) of the Health Benefit Exchange, or the CEO's designee;
- a representative of local governments that purchase health care for their employees;
- two members representing consumers;
- a representative of Taft-Hartley health benefit plans;
- two representatives of large employers, at least one of which is a self-funded group health plan;
- a representative of small businesses;
- an actuary or an expert in health care economics; and
- an expert in health care financing.

The Governor must appoint the members of the Transparency Board and designate its chair. Each of the two largest caucuses from each chamber of the Legislature must submit one nominee for the eight members who are not from the executive branch or the Health Benefit Exchange. The Governor must appoint the members from the nominees submitted and must choose at least one nominee from each caucus. Members may not have a financial conflict of interest in the Transparency Board's decisions.

The Transparency Board must establish an advisory committee on data issues and an advisory committee of health care providers and carriers. The Transparency Board may choose to establish other advisory committees. The members of both advisory committees must be appointed by the Transparency Board. The advisory committee on data issues must

consist of persons with expertise in health data collection and reporting, health care claims data analysis, health care economic analysis, and actuarial analysis. The members of the advisory committee of health care providers and carriers must include:

- a representative of hospitals and hospital systems, selected from a list of three nominees submitted by the Washington State Hospital Association;
- a representative of federally qualified health centers, selected from a list of three nominees submitted by the Washington Association of Community Health;
- a physician, selected from a list of three nominees submitted by the Washington State Medical Association;
- a primary care physician, selected from a list of three nominees submitted by the Washington Academy of Family Physicians;
- a representative of behavioral health providers, selected from a list of three nominees submitted by the Washington Council for Behavioral Health;
- a representative of pharmacists and pharmacies, selected from a list of three nominees submitted by the Washington State Pharmacy Association;
- a representative of advanced registered nurse practitioners (ARNPs), selected from a list of three nominees submitted by ARNPs United of Washington State;
- a representative of tribal health providers, selected from a list of three nominees submitted by the American Indian Health Commission;
- a representative of a health maintenance organization, selected from a list of three nominees submitted by the Association of Washington Healthcare Plans;
- a representative of a managed care organization that contracts with the Authority to serve medical assistance enrollees, selected from a list of three nominees submitted by the Association of Washington Healthcare Plans;
- a representative of a health care service contractor, selected from a list of three nominees submitted by the Association of Washington Healthcare Plans; and
- three members, at least one of whom represents a disability insurer, selected from a list of three nominees submitted by America's Health Insurance Plans.

The Authority is responsible for establishing the Transparency Board. The Authority may contract with a private nonprofit entity to administer the Transparency Board and provide support. The contracted entity may not have a financial interest that could create a conflict of interest or potential bias. The Authority or the contracted entity must solicit federal and private funds to support the Transparency Board's work, unless the private funds could create a potential conflict of interest.

The Transparency Board must submit an initial report to the Governor and the Legislature by August 1, 2021. The preliminary report must address the progress toward establishing the Transparency Board and advisory committees, as well as the total health care expenditures, health care cost growth, and the health care cost growth benchmark. The preliminary report must discuss any obstacles related to conducting the Transparency Board's work, including deficiencies in data. The Transparency Board must begin submitting annual reports to the Governor and the Legislature by August 1, 2022. Annual reports may include recommendations, including recommendations for lowering health care costs and establishing a rating system of health care providers and pagers.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendments add a fourteenth member to the Health Care Cost Transparency Board (Board) who is a nonvoting member of the Board. The member must be on the advisory committee of health care providers and carriers and have operational experience in health care delivery. Each legislative caucus must submit five nominees for the Board membership, rather than a single nominee for each position. Nominees must be diverse in geography, gender, and ethnicity. The Governor may reject nominees who do not meet the qualifications to serve. A member representing ambulatory surgical centers is added to the advisory committee of health care providers and carriers.

The Senate amendments require that, beginning in 2023, the Board must analyze the impacts of cost drivers to health care and incorporate the analysis into determining the annual total health care expenditures and establishing the annual health care cost growth benchmark. In calculating the total health care expenditures and health care cost growth for each health care provider, provider system, and payer, the Board must take into account utilization by the patients and enrollees, the intensity of the services provided, and regional differences in input prices.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Health Care & Wellness):

(In support) The state needs to get a handle on how much it is spending on health care and how to bring down the trend line. Health care systems across the health care continuum are economically fragile so it is imperative to understand the underlying drivers behind the total cost of care. Establishing a board that assesses health care expenditures, calculates annual cost growth, and sets cost growth benchmarks moves the needle toward a better understanding of the health care system. This bill is common sense legislation that lays the groundwork for future initiatives that address health care affordability. This bill consolidates a multitude of important health care costs within a fractured health care system. This bill provides a more holistic view of the health system and its cost drivers. This bill can enhance predictability for health care purchasers and consumers. This bill can identify cost savings from wasteful spending. Health care costs are growing at an unsustainable rate for purchasers and patients. High costs create challenges where people cannot get the care they need and affects personal finances. At the patient level, the high costs most affect those with serious medical conditions and who are uninsured. There is increased consolidation among health care providers and there are challenges with managing the cost of prescription drugs and these trends affect the cost of health care.

This bill is the next logical step in health care transparency because it brings together public and private health care purchasers to evaluate data and set the appropriate spending benchmark. Consumers make better decisions about going to health care providers who provide better quality at a reasonable cost.

(Opposed) None.

(Other) There needs to be a bigger picture of the cost of health care, but there needs to be additional thought and context added to the bill if it is to meaningfully understand the cost of health care. The bill is missing a discussion of the value of the health services that are provided. Money spent on some medications can result in savings in other parts of the health care system. Prescription drugs are outpacing other areas of health care spending. Pharmaceutical costs are not properly included. This bill needs to measure factors beyond payment when determining the costs of health care, such as labor costs, capital costs, supplies, uncompensated care, and administrative compliance. Post-acute care and skilled nursing facilities need to be included. It is important to understand the costs associated with persons in hospitals who cannot be discharged because of the lack of another facility that can accommodate them. The requirement to calculate cost growth per provider, facility, or payer should include patient health status information such as utilization, intensity, and regional input variations. Currently available data sources should be considered before looking for more data.

A member of the prescription drug industry should be on the Transparency Board. Nurses play a critical role in the health care system and would like to be on the health care provider advisory committee. The conversations of the Transparency Board will be improved by having physicians involved and they would like to be on the board.

This bill will hopefully shine a light on the causes of increasing costs in the health care system. Studying this is extremely important to make sure that health care is a benefit that businesses can continue to provide to their employees as a recruitment and retention tool. An evaluation of health care costs must take a realistic approach so that research and innovation of health care delivery is not stymied. There is a national movement to align these evaluations among states so they are uniform and can provide comparative information. The bill should authorize the Health Care Authority to seek foundation resources and other technical support resources.

Payers are concerned about calculating the rate growth cap and publicizing entities that exceed it. There is concern that payers might not have input on whether the caps were fairly set and analyzed. The bill does not have similar reporting requirements at specific levels in the pharmaceutical industry, medical device industry, or others.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill is the next logical step in the progression towards greater transparency in health care costs and quality, instead of runaway health care costs. The implementation cost of $1.2 million is money well invested to identify health care spending systemwide and establish a benchmark that could lead to long-term savings for the state through better acquisition through state employee benefit plans. There will also be cost savings to Washington consumers, including businesses that provide employer-sponsored health insurance.

Massachusetts and a couple of other states have taken up this same approach. Everybody is affected by the cost of premiums, but those premiums are driven by factors such as

prescription drug costs and the cost of consolidation and vertical integration happening in hospitals and among provider groups. A lot is happening in health care and understanding those drivers to find natural depressants on those increases will benefit everyone.

(Opposed) None.

Persons Testifying (Health Care & Wellness): (In support) Representative Cody, prime sponsor; Patrick Connor, National Federation of Independent Business; Sheena Tomar, Service Employees International Union 775 Benefits Group; Sybill Hyppolite, Washington State Labor Council; and Lonnie Johns-Brown, Office of the Insurance Commissioner.

(Other) Jeff Gombosky, Pharmaceutical Research and Manufacturers of America; Zach Snyder, Regence BlueShield; Chris Bandoli, Association of Washington Healthcare Plans; Melissa Johnson, Washington State Nurses Association; Zosia Stanley, Washington State Hospital Association; Sean Graham, Washington State Medical Association; Amy Anderson, Association of Washington Business; and Sue Birch, Health Care Authority.

Persons Testifying (Appropriations): Patrick Connor, National Federation of Independent Business; and Lonnie Johns-Brown, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying (Health Care & Wellness): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.