

SENATE BILL REPORT

ESHB 1608

As Passed Senate, March 4, 2020

Title: An act relating to protecting patient care.

Brief Description: Protecting patient care.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Macri, Dolan, Slatter, Stonier, Robinson, Kilduff, Riccelli, Senn, Goodman, Tharinger, Jinkins, Davis, Cody, Appleton, Kloba, Ortiz-Self, Valdez, Frame, Pollet, Stanford, Tarleton and Leavitt).

Brief History: Passed House: 2/17/20, 65-33.

Committee Activity: Health & Long Term Care: 2/21/20, 2/24/20 [DP, w/oRec].

Floor Activity:

Passed Senate: 3/04/20, 39-7.

Brief Summary of Engrossed First Substitute Bill

- Prohibits a health care entity from limiting a health care provider's provision of accurate and comprehensive information to patients about the patient's health status and treatment options.
- Requires the Department of Health (DOH) to create and make available online materials to inform health care providers and staff of their authority to provide information under this act.
- Requires the DOH to create materials for providers and patient's about the Death with Dignity Act.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass.

Signed by Senators Cleveland, Chair; Randall, Vice Chair; Conway, Dhingra, Frockt, Keiser, Muzzall, Rivers and Van De Wege.

Minority Report: That it be referred without recommendation.

Signed by Senators O'Ban, Ranking Member; Becker.

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.

Staff: Greg Attanasio (786-7410)

Background: Scope of Practice. Scope of practice is the procedures, actions, and processes that a health care provider is permitted to undertake in keeping with the terms of the provider's professional license. These may include diagnosis, treatment, surgical procedures, and authority to prescribe drugs to treat a patient's condition. Scope of practice is limited to that which the law allows for specific education and experience, and specific demonstrated competency. Health care facilities may grant privileges to a health care provider to admit patients and to provide services to patients in that facility. In medical staff bylaws, a health care facility must state the duties and scope of privileges each category of provider may be granted. The scope may be narrower than the scope of practice for that category of provider and can be modified for a specific provider's abilities.

Death with Dignity. The Washington Death with Dignity Act (Act) was enacted by initiative in 2009. The act permits a patient to request medication that they may self-administer to end their life if: the patient is a competent adult and a resident of Washington; the attending physician and a consulting physician have determined that the patient suffers from a terminal disease and the patient has voluntarily expressed the wish to die; the patient has made a request for medication on a form provided in statute; and the form is signed and dated by the patient and at least two witnesses who attest to their belief that the patient is competent, acting voluntarily, and not being coerced to sign the request.

Emergency Medical Treatment and Active Labor Act. Under the federal Emergency Medical Treatment and Active Labor Act, which was passed by Congress in 1986, a hospital may not turn away a patient who comes to the emergency department with an emergency medical condition. The hospital must screen and evaluate the patient and provide treatment necessary to stabilize them.

Summary of Engrossed First Substitute Bill: If a health care provider is acting in good faith, within the provider's scope of practice, education, training, and experience, and within the accepted standard of care, a health care entity may not limit the health care provider's:

- provision of medically accurate and comprehensive information and counseling to a patient regarding the patient's health status, including diagnosis, prognosis, recommended treatment, treatment alternatives, information, and any potential risks to the patient's health or life;
- provision of information about available services and about what relevant resources are available in the community and how to access those resources for obtaining the care of the patient's choice; and
- provision of information about the Act, about what relevant resources are available in the community, and how to access those resources for obtaining the care of the patient's choice.

A health care entity may not penalize, take, or threaten to take adverse action against a health care provider for providing information in compliance with this act.

DOH must design, prepare, and make available online materials to inform health care providers and staff of the authority to provide information under this act. Health care entities must provide this information and information about obligations under the federal

Emergency Medical Treatment and Labor Act at the time of hiring, contracting with, or privileging health care providers and staff, and on a yearly basis. DOH must also create and make available online, written materials to provide information to providers and patients about the Act.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The bill protects willing providers, but does not require providers to provide information they do not want to. Health care providers should feel secure to provide appropriate care and counseling to patients. Patients need to know their full range of medical options. Patients struggle to obtain relevant information in some circumstances and the delay can have irreversible consequences. The bill contains carefully crafted language that is supported by providers and hospitals. DOH resources will be helpful to inform providers.

Persons Testifying: PRO: Representative Nicole Macri, Prime Sponsor; Leah Rutman ACLU; Brenda Bowles, citizen; Dr. Annie Iriye, American College of Obstetricians and Gynecologists; Zosia Stanley, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: No one.