

SSB 5140 - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED 03/24/2021

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

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Department" means the department of health.

7 (2) "Health care entity" means an entity that supervises,
8 controls, grants privileges to, directs the practice of, or directly
9 or indirectly restricts the practice of, a health care provider.

10 (3) "Health care provider" has the same meaning as in RCW
11 70.02.010.

12 NEW SECTION. **Sec. 2.** (1) Except as provided in subsection (2)
13 of this section, if a health care provider is acting in good faith,
14 within the provider's scope of practice, education, training, and
15 experience and within the accepted standard of care, a health care
16 entity may not prohibit the health care provider from providing
17 health care services related to complications of pregnancy, including
18 but not limited to health services related to miscarriage management
19 and treatment for ectopic pregnancies, in cases in which failure to
20 provide the service would violate the accepted standard of care or
21 when the patient presents a medical condition manifesting itself by
22 acute symptoms of sufficient severity such that the absence of
23 medical attention could reasonably be expected to pose a risk:

24 (a) To the patient's life; or

25 (b) Of irreversible complications or impairment to the patient's
26 bodily functions or any bodily organ or part.

27 (2) Nothing in this section prohibits a health care entity from
28 limiting a health care provider's practice for purposes of:

29 (a) Complying with the network or utilization review requirements
30 of any program or entity authorized by state or federal law to
31 provide insurance coverage for health care services to enrollees; or

1 (b) Quality control and patient safety, including when quality
2 control or patient safety issues are identified pursuant to peer
3 review.

4 (3) A health care entity may not discharge, demote, suspend,
5 discipline, or otherwise discriminate against a health care provider
6 for providing services in compliance with this section.

7 NEW SECTION. **Sec. 3.** A patient, a health care provider, or an
8 individual, who is aggrieved by a violation of section 2 of this act,
9 may bring a civil action against a health care entity to enjoin
10 further violations, to recover damages, or both. The prevailing party
11 in such action may in the discretion of the court recover costs of
12 litigation and reasonable attorneys' fees.

13 NEW SECTION. **Sec. 4.** Beginning March 1, 2022, a health care
14 entity shall provide the information prepared by the department under
15 section 5 of this act at the time of hiring, contracting with, or
16 privileging health care providers and staff, and on a yearly basis
17 thereafter.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.70
19 RCW to read as follows:

20 By December 31, 2021, the department shall design, prepare, and
21 make available online, written materials to clearly inform health
22 care providers and staff of the provisions of, and authority to act
23 under, chapter 70.--- RCW (the new chapter created in section 7 of
24 this act).

25 NEW SECTION. **Sec. 6.** If any part of this act is found to be in
26 conflict with federal requirements that are a prescribed condition to
27 the allocation of federal funds to the state, the conflicting part of
28 this act is inoperative solely to the extent of the conflict and with
29 respect to the agencies directly affected, and this finding does not
30 affect the operation of the remainder of this act in its application
31 to the agencies concerned. Rules adopted under this act must meet
32 federal requirements that are a necessary condition to the receipt of
33 federal funds by the state.

1 NEW SECTION. **Sec. 7.** Sections 1 through 4 of this act
2 constitute a new chapter in Title 70 RCW."

3 Correct the title.

EFFECT: Removes the provision that entitles the prevailing party to recover costs of litigation and reasonable attorneys' fees and instead permits the court to allow the prevailing party to recover costs of litigation and reasonable attorneys' fees.

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