
Health Care & Wellness Committee

SSB 5140

Brief Description: Protecting pregnancy and miscarriage-related patient care.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senators Kuderer, Frockt, Conway, Das, Dhingra, Hasegawa, Hunt, Lovelett, Randall, Saldaña, Stanford, Wellman and Wilson, C.).

<p style="text-align: center;">Brief Summary of Substitute Bill</p> <ul style="list-style-type: none">• Prohibits health care entities from restricting health care providers from providing services related to pregnancy complications in certain situations.

Hearing Date: 3/11/21

Staff: Kim Weidenaar (786-7120).

Background:

Access to Care Policies.

In 2019 the Legislature passed Second Substitute Senate Bill 5602, which requires hospitals to submit access to care policies to the Department of Health (DOH) related to admissions, nondiscrimination, and reproductive health care. The DOH developed a form for hospitals to use when submitting their policies, which are also posted on the DOH's website.

Provision of Health Care Information.

In 2020 the Legislature passed Engrossed Substitute House Bill 1608, which prohibits health care entities from limiting health care providers from providing accurate and comprehensive information to patients about the patient's health status and treatment options, including information about available services and what relevant resources are available in the community

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and how to access those resources. The DOH developed information for health care entities and providers about implementing the law, which are available on the DOH's website.

Scope of Practice.

Scope of practice is the procedures, actions, and processes 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.

Emergency Medical Treatment and Active Labor Act.

Under the federal Emergency Medical Treatment and Active Labor Act (commonly known as EMTALA), 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 Substitute Bill:

A health care entity may not prohibit a health care provider that is acting in good faith, within the provider's scope of practice, experience, training, education, and the accepted standard of care, from providing services related to complications of pregnancy, including miscarriage management health services and treatment for ectopic pregnancies, if:

- failure to provide these services would violate the accepted standard of care; or
- the patient's acute symptoms present with sufficient severity that the absence of medical attention could reasonably be expected to pose a risk: to the patient's life; or of irreversible complications or impairment to the patient's bodily functions or any bodily organ or part.

A health care entity is not prohibited from limiting a health care provider's practice for purposes of:

- complying with network or utilization review requirements;
- quality control; and
- patient safety.

A health care entity may not discharge, demote, suspend, discipline, or otherwise discriminate against a health care provider for providing services in compliance with these provisions. A patient, health care provider, or individual, who is aggrieved by violation of these provisions may bring a civil action against a health care entity to enjoin further violations and recover damages. The prevailing party is entitled to recover litigation costs and reasonable attorneys' fees.

By December 31, 2021, the Department of Health (DOH) must design, prepare, and make available online materials to inform health care providers and staff of the authority to act under

these provisions. Beginning March 1, 2022, a health care entity must provide the information prepared by the DOH to health care providers and staff at the time of hiring, contracting, or privileging, and on an annual basis. If any provision is found to be in conflict with federal requirements prescribed as a condition to receive federal funds, the conflicting provision is inoperative to the extent of the conflict for agencies directly affected.

"Health care entity" is defined as an entity that supervises, controls, grants privileges to, directs the practice of, or directly or indirectly restricts the practice of, a health care provider.

Appropriation: None.

Fiscal Note: Available.

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