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**SUBSTITUTE SENATE BILL 5958**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Parlette, Marr and Kohl-Welles)

READ FIRST TIME 02/28/07.

1            AN ACT Relating to innovative primary health care delivery;  
2 amending RCW 48.44.010; adding a new chapter to Title 70 RCW; and  
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** It is the public policy of Washington to  
6 promote access to medical care for all citizens and to encourage  
7 innovative arrangements between patients and providers that will help  
8 provide all citizens with a medical home.

9            Washington needs a multipronged approach to provide adequate health  
10 care to many citizens who lack adequate access to it. Direct patient-  
11 provider practices, in which patients enter into a direct relationship  
12 with medical practitioners and pay a fixed amount directly to the  
13 health care provider for primary care services, represent an  
14 innovative, affordable option which could improve access to medical  
15 care, reduce the number of people who now lack such access, and cut  
16 down on emergency room use for primary care purposes, thereby freeing  
17 up emergency room facilities to treat true emergencies.

1       **Sec. 2.** RCW 48.44.010 and 1990 c 120 s 1 are each amended to read  
2 as follows:

3       For the purposes of this chapter:

4       (1) "Health care services" means and includes medical, surgical,  
5 dental, chiropractic, hospital, optometric, podiatric, pharmaceutical,  
6 ambulance, custodial, mental health, and other therapeutic services.

7       (2) "Provider" means any health professional, hospital, or other  
8 institution, organization, or person that furnishes health care  
9 services and is licensed to furnish such services.

10       (3) "Health care service contractor" means any corporation,  
11 cooperative group, or association, which is sponsored by or otherwise  
12 intimately connected with a provider or group of providers, who or  
13 which not otherwise being engaged in the insurance business, accepts  
14 prepayment for health care services from or for the benefit of persons  
15 or groups of persons as consideration for providing such persons with  
16 any health care services. "Health care service contractor" does not  
17 include direct patient-provider primary care practices as defined in  
18 section 3 of this act.

19       (4) "Participating provider" means a provider, who or which has  
20 contracted in writing with a health care service contractor to accept  
21 payment from and to look solely to such contractor according to the  
22 terms of the subscriber contract for any health care services rendered  
23 to a person who has previously paid, or on whose behalf prepayment has  
24 been made, to such contractor for such services.

25       (5) "Enrolled participant" means a person or group of persons who  
26 have entered into a contractual arrangement or on whose behalf a  
27 contractual arrangement has been entered into with a health care  
28 service contractor to receive health care services.

29       (6) "Commissioner" means the insurance commissioner.

30       (7) "Uncovered expenditures" means the costs to the health care  
31 service contractor for health care services that are the obligation of  
32 the health care service contractor for which an enrolled participant  
33 would also be liable in the event of the health care service  
34 contractor's insolvency and for which no alternative arrangements have  
35 been made as provided herein. The term does not include expenditures  
36 for covered services when a provider has agreed not to bill the  
37 enrolled participant even though the provider is not paid by the health

1 care service contractor, or for services that are guaranteed, insured  
2 or assumed by a person or organization other than the health care  
3 service contractor.

4 (8) "Copayment" means an amount specified in a group or individual  
5 contract which is an obligation of an enrolled participant for a  
6 specific service which is not fully prepaid.

7 (9) "Deductible" means the amount an enrolled participant is  
8 responsible to pay before the health care service contractor begins to  
9 pay the costs associated with treatment.

10 (10) "Group contract" means a contract for health care services  
11 which by its terms limits eligibility to members of a specific group.  
12 The group contract may include coverage for dependents.

13 (11) "Individual contract" means a contract for health care  
14 services issued to and covering an individual. An individual contract  
15 may include dependents.

16 (12) "Carrier" means a health maintenance organization, an insurer,  
17 a health care service contractor, or other entity responsible for the  
18 payment of benefits or provision of services under a group or  
19 individual contract.

20 (13) "Replacement coverage" means the benefits provided by a  
21 succeeding carrier.

22 (14) "Insolvent" or "insolvency" means that the organization has  
23 been declared insolvent and is placed under an order of liquidation by  
24 a court of competent jurisdiction.

25 (15) "Fully subordinated debt" means those debts that meet the  
26 requirements of RCW 48.44.037(3) and are recorded as equity.

27 (16) "Net worth" means the excess of total admitted assets as  
28 defined in RCW 48.12.010 over total liabilities but the liabilities  
29 shall not include fully subordinated debt.

30 NEW SECTION. **Sec. 3.** The definitions in this section apply  
31 throughout this chapter unless the context clearly requires otherwise.

32 (1) "Direct patient-provider primary care practice" and "direct  
33 practice" means a provider, group, or entity that meets the following  
34 criteria in (a), (b), (c), and (d) of this subsection:

35 (a)(i) A health care provider who furnishes health care services  
36 through a direct agreement; or

1 (ii) A group of health care providers who furnish health care  
2 services through a direct agreement;

3 (b) Enters into direct agreements with direct patients or parents  
4 or legal guardians of direct patients;

5 (c) Does not accept payment for health care services provided to  
6 direct patients from any entity subject to regulation under Title 48  
7 RCW; and

8 (d) Does not include prescription drugs, hospitalization costs,  
9 major surgery, dialysis, high level radiology (CT, MRI, PET scans or  
10 invasive radiology), rehabilitation services, or procedures requiring  
11 general anesthesia in the direct fee.

12 (2) "Direct patient" means a person who is party to a direct  
13 agreement and is entitled to receive health care services under the  
14 direct agreement from the direct practice.

15 (3) "Direct fee" means a fee charged by a direct health care  
16 practice as consideration for being available to provide and providing  
17 health care services as specified in a direct agreement. The fee must  
18 represent the total amount due for all health care services specified  
19 in the direct agreement and may be paid by the direct patient or on his  
20 or her behalf by others.

21 (4) "Direct agreement" means a written agreement entered into  
22 between a direct practice and an individual direct patient (or the  
23 parent or legal guardian of the direct patient or a family of direct  
24 patients) whereby the direct practice charges a direct fee as  
25 consideration for being available to provide and providing health care  
26 services to the individual direct patient. A direct agreement must (a)  
27 describe the specific health care services the direct practice will  
28 provide; (b) be terminable at will upon written notice by the direct  
29 patient; and (c) include the following disclaimer: "This agreement  
30 does not provide comprehensive health insurance coverage. It provides  
31 only the health care services specifically described."

32 (5) "Health care provider" or "provider" means a person regulated  
33 under Title 18 RCW or chapter 70.127 RCW to practice health or health-  
34 related services or otherwise practicing health care services in this  
35 state consistent with state law.

36 NEW SECTION. **Sec. 4.** (1) A direct practice must charge a direct  
37 fee on a monthly basis.

1 (2) A direct practice must:

2 (a) Maintain appropriate accounts and provide data regarding  
3 payments made and services received to direct patients upon request;  
4 and

5 (b) Either:

6 (i) Bill patients at the end of each monthly period; or

7 (ii) If the patient pays the monthly fee in advance, promptly  
8 refund to the direct patient all unearned direct fees following receipt  
9 of written notice of termination of the direct agreement from the  
10 direct patient. The amount of the direct fee considered earned shall  
11 be a proration of the monthly fee as of the date the notice of  
12 termination is received.

13 (3) If the patient chooses to pay more than one monthly direct fee  
14 in advance, the funds will be held in a trust account and paid to the  
15 direct practice as earned at the end of each month. Any unearned  
16 direct fees held in trust following receipt of termination of the  
17 direct agreement shall be promptly refunded to the direct patient. The  
18 amount of the direct fee earned shall be a proration of the monthly fee  
19 for the then current month as of the date the notice of termination is  
20 received.

21 (4) A direct practice must designate a contact person to receive  
22 and address any patient complaints.

23 NEW SECTION. **Sec. 5.** (1) Direct health care practices may not  
24 decline to accept new direct patients or discontinue care to existing  
25 patients solely because of the patient's health status. A direct  
26 practice may decline to accept a patient if the practice has reached  
27 its maximum capacity, or if the patient's medical condition is such  
28 that the provider is unable to provide the appropriate level and type  
29 of health care services in the direct practice or if the direct  
30 practice reasonably determines that the patient would be better served  
31 by another health care provider.

32 (2) Direct practices may, but are not required to, accept payment  
33 of direct fees directly or indirectly from third parties.

34 (3) Direct health care practices and providers may charge an  
35 additional fee to direct patients for goods provided to the direct  
36 patients that are not covered by the direct agreement, including but  
37 not limited to medications and specific vaccines.

1        NEW SECTION.    **Sec. 6.** Direct practices, as defined in section 3 of  
2 this act, who comply with this chapter are not subject to regulation  
3 under Title 48 RCW.

4        NEW SECTION.    **Sec. 7.** A person shall not knowingly make, publish,  
5 or disseminate any false, deceptive, or misleading representation or  
6 advertising in the conduct of the business of a direct practice, or  
7 relative to the business of a direct practice.

8        NEW SECTION.    **Sec. 8.** A person shall not knowingly make, issue, or  
9 circulate, or cause to be made, issued, or circulated, a  
10 misrepresentation of the terms of any direct agreement, or the benefits  
11 or advantages promised thereby, or use the name or title of any direct  
12 agreement misrepresenting the nature thereof.

13       NEW SECTION.    **Sec. 9.** Violations of this chapter constitute  
14 unprofessional conduct enforceable under RCW 18.130.180. Violations of  
15 sections 7 and 8 of this act are also prohibited acts that may be  
16 restrained by the attorney general under RCW 19.86.080.

17       NEW SECTION.    **Sec. 10.** A carrier may not discriminate in paying  
18 for covered goods or services solely on the basis that a direct  
19 practice provider that is not a participating provider has ordered the  
20 goods or services or referred the patient for such goods or services.

21       NEW SECTION.    **Sec. 11.** Direct practices must submit annual  
22 statements to the office of insurance commissioner specifying the  
23 number of providers in each practice, total number of patients being  
24 served, providers' names, and the business address for each direct  
25 practice. The form for the annual statement will be developed in a  
26 manner prescribed by the commissioner.

27       NEW SECTION.    **Sec. 12.** Sections 3 through 11 of this act  
28 constitute a new chapter in Title 70 RCW.

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