
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5958

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Parlette, Marr and Kohl-Welles)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to innovative primary health care delivery;
2 amending RCW 48.44.010; adding a new chapter to Title 48 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 primary care services
36 through a direct agreement;

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

3 (iii) An entity that sponsors, employs, or is otherwise affiliated
4 with a group of health care providers who furnish only primary care
5 services through a direct agreement, which entity is wholly owned by
6 the group of health care providers or is a nonprofit corporation exempt
7 from taxation under section 501(c)(3) of the internal revenue code, and
8 is not otherwise regulated as a health care service contractor, health
9 maintenance organization, or disability insurer under Title 48 RCW.
10 Such entity is not prohibited from sponsoring, employing, or being
11 otherwise affiliated with other types of health care providers not
12 engaged in a direct practice;

13 (b) Enters into direct agreements with direct patients or parents
14 or legal guardians of direct patients;

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

18 (d) Does not provide, in consideration for the direct fee,
19 services, procedures, or supplies such as prescription drugs,
20 hospitalization costs, major surgery, dialysis, high level radiology
21 (CT, MRI, PET scans or invasive radiology), rehabilitation services,
22 procedures requiring general anesthesia, or similar advanced
23 procedures, services, or supplies.

24 (2) "Direct patient" means a person who is party to a direct
25 agreement and is entitled to receive primary care services under the
26 direct agreement from the direct practice.

27 (3) "Direct fee" means a fee charged by a direct practice as
28 consideration for being available to provide and providing primary care
29 services as specified in a direct agreement. The fee must represent
30 the total amount due for all health care services specified in the
31 direct agreement and may be paid by the direct patient or on his or her
32 behalf by others.

33 (4) "Direct agreement" means a written agreement entered into
34 between a direct practice and an individual direct patient, or the
35 parent or legal guardian of the direct patient or a family of direct
36 patients, whereby the direct practice charges a direct fee as
37 consideration for being available to provide and providing health care
38 services to the individual direct patient. A direct agreement must (a)

1 describe the specific health care services the direct practice will
2 provide; (b) be terminable at will upon written notice by the direct
3 patient; and (c) include the following disclaimer: "This agreement
4 does not provide comprehensive health insurance coverage. It provides
5 only the health care services specifically described." The direct
6 agreement may not be sold to a group and may not be entered with a
7 group of subscribers. It must be an agreement between a direct
8 practice and an individual direct patient. Nothing prohibits the
9 presentation of marketing materials to groups of potential subscribers
10 or their representatives.

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

15 (6) "Health carrier" or "carrier" has the same meaning as in RCW
16 48.43.005.

17 (7) "Primary care" means routine health care services, including
18 screening, assessment, diagnosis, and treatment for the purpose of
19 promotion of health, and detection and management of disease or injury.

20 (8) "Network" means the group of participating providers and
21 facilities providing health care services to a particular health
22 carrier.

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

25 (2) A direct practice must:

26 (a) Maintain appropriate accounts and provide data regarding
27 payments made and services received to direct patients upon request;
28 and

29 (b) Either:

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

31 (ii) If the patient pays the monthly fee in advance, promptly
32 refund to the direct patient all unearned direct fees following receipt
33 of written notice of termination of the direct agreement from the
34 direct patient. The amount of the direct fee considered earned shall
35 be a proration of the monthly fee as of the date the notice of
36 termination is received.

1 (3) If the patient chooses to pay more than one monthly direct fee
2 in advance, the funds will be held in a trust account and paid to the
3 direct practice as earned at the end of each month. Any unearned
4 direct fees held in trust following receipt of termination of the
5 direct agreement shall be promptly refunded to the direct patient. The
6 amount of the direct fee earned shall be a proration of the monthly fee
7 for the then current month as of the date the notice of termination is
8 received.

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

11 NEW SECTION. **Sec. 5.** (1) Direct practices may not:

12 (a) Enter into a participating provider contract as defined in RCW
13 48.44.010 or 48.46.020 with any carrier or with any carrier's
14 contractor or subcontractor to provide health care services through a
15 direct agreement except as set forth in subsection (2) of this section;

16 (b) Submit a claim for payment to any carrier or any carrier's
17 contractor or subcontractor for health care services provided to direct
18 patients as covered by their agreement;

19 (c) With respect to services provided through a direct agreement,
20 be identified by a carrier or any carrier's contractor or subcontractor
21 as a participant in the carrier's or any carrier's contractor or
22 subcontractor network for purposes of determining network adequacy or
23 being available for selection by an enrollee under a carrier's benefit
24 plan; or

25 (d) Pay for health care services covered by a direct agreement
26 rendered to direct patients by providers other than the providers in
27 the direct practice or their employees, except as described in
28 subsection (2)(b) of this section.

29 (2) Direct practices and providers may:

30 (a) Enter into a participating provider contract as defined by RCW
31 48.44.010 and 48.46.020 for purposes other than payment of claims for
32 services provided to direct patients through a direct agreement. Such
33 providers shall be subject to all other provisions of the participating
34 provider contract applicable to participating providers including but
35 not limited to the right to:

36 (i) Make referrals to other participating providers;

1 (ii) Admit the carrier's members to participating hospitals and
2 other health care facilities;

3 (iii) Prescribe prescription drugs; and

4 (iv) Implement other customary provisions of the contract not
5 dealing with reimbursement of services;

6 (b) Pay for charges associated with the provision of routine lab
7 and imaging services provided in connection with wellness physical
8 examinations. In aggregate such payments per year per direct patient
9 are not to exceed fifteen percent of the total annual direct fee
10 charged that direct patient. Exceptions to this limitation may occur
11 in the event of short-term equipment failure if such failure prevents
12 the provision of care that should not be delayed; and

13 (c) Charge an additional fee to direct patients for supplies,
14 medications, and specific vaccines provided to direct patients that are
15 specifically excluded under the agreement, provided the direct practice
16 notifies the direct patient of the additional charge, prior to their
17 administration or delivery.

18 NEW SECTION. **Sec. 6.** (1) Direct practices may not decline to
19 accept new direct patients or discontinue care to existing patients
20 solely because of the patient's health status. A direct practice may
21 decline to accept a patient if the practice has reached its maximum
22 capacity, or if the patient's medical condition is such that the
23 provider is unable to provide the appropriate level and type of health
24 care services in the direct practice or if the direct practice
25 reasonably determines that the patient would be better served by
26 another health care provider.

27 (2) Direct practices may accept payment of direct fees directly or
28 indirectly from nonemployer third parties.

29 NEW SECTION. **Sec. 7.** Direct practices, as defined in section 3 of
30 this act, who comply with this chapter are not insurers under RCW
31 48.01.050, health carriers under chapter 48.43 RCW, health care service
32 contractors under chapter 48.44 RCW, or health maintenance
33 organizations under chapter 48.46 RCW.

34 NEW SECTION. **Sec. 8.** A person shall not make, publish, or

1 disseminate any false, deceptive, or misleading representation or
2 advertising in the conduct of the business of a direct practice, or
3 relative to the business of a direct practice.

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

9 NEW SECTION. **Sec. 10.** Violations of this chapter constitute
10 unprofessional conduct enforceable under RCW 18.130.180.

11 NEW SECTION. **Sec. 11.** (1) Direct practices must submit annual
12 statements to the office of insurance commissioner specifying the
13 number of providers in each practice, total number of patients being
14 served, providers' names, and the business address for each direct
15 practice. The form for the annual statement will be developed in a
16 manner prescribed by the commissioner.

17 (2) A health care provider may not act as, or hold himself or
18 herself out to be, a direct practice in this state, nor may a direct
19 agreement be entered into with a direct patient in this state, unless
20 the provider submits the annual statement in subsection (1) of this
21 section to the commissioner.

22 (3) The commissioner shall report annually to the legislature on
23 direct practices. The initial report shall be due December 1, 2009.

24 NEW SECTION. **Sec. 12.** A comprehensive disclosure statement shall
25 be distributed to all direct patients with their enrollment forms.
26 Such disclosure must inform the direct patients of their financial
27 rights and responsibilities to the direct practice as provided for in
28 this chapter, encourage that direct patients obtain and maintain
29 insurance for services not provided by the direct practice, and state
30 that the direct practice will not bill a carrier for services covered
31 under the direct agreement. The disclosure statement shall include
32 contact information for the office of the insurance commissioner.

1 NEW SECTION. **Sec. 13.** Sections 3 through 12 of this act
2 constitute a new chapter in Title 48 RCW.

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