
ENGROSSED SUBSTITUTE HOUSE BILL 1311

State of Washington

62nd Legislature

2011 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Bailey, Green, Clibborn, Appleton, Moeller, Frockt, Seaquist, and Dickerson)

READ FIRST TIME 02/16/11.

1 AN ACT Relating to establishing a public/private collaborative to
2 improve health care quality, cost-effectiveness, and outcomes in
3 Washington state; amending RCW 70.250.010 and 70.250.030; adding a new
4 section to chapter 70.250 RCW; creating a new section; and repealing
5 RCW 70.250.020.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) Efforts are needed across the health care system to improve the
9 quality and cost-effectiveness of health care services provided in
10 Washington state and to improve care outcomes for patients.

11 (b) Some health care services currently provided in Washington
12 state present significant safety, efficacy, or cost-effectiveness
13 concerns. Substantial variation in practice patterns or high
14 utilization trends can be indicators of poor quality and potential
15 waste in the health care system, without producing better care outcomes
16 for patients.

17 (c) State purchased health care programs should partner with
18 private health carriers, third-party purchasers, and health care

1 providers in shared efforts to improve quality, health outcomes, and
2 cost-effectiveness of care.

3 (2) The legislature declares that collaboration among state
4 purchased health care programs, private health carriers, third-party
5 purchasers, and health care providers to identify appropriate
6 strategies that will increase the effectiveness of health care
7 delivered in Washington state is in the best interest of the public.
8 The legislature therefore intends to exempt from state antitrust laws,
9 and to provide immunity from federal antitrust laws through the state
10 action doctrine, for activities undertaken pursuant to efforts designed
11 and implemented under this act that might otherwise be constrained by
12 such laws. The legislature does not intend and does not authorize any
13 person or entity to engage in activities or to conspire to engage in
14 activities that would constitute per se violations of state and federal
15 antitrust laws including, but not limited to, agreements among
16 competing health care providers or health carriers as to the price or
17 specific level of reimbursement for health care services.

18 (3) The legislature intends that the Robert Bree collaborative
19 established in section 3 of this act provide a mechanism through which
20 public and private health care purchasers, health carriers, and
21 providers can work together to identify effective means to improve
22 quality health outcomes and cost-effectiveness of care. It is not the
23 intent of the legislature to mandate payment or coverage decisions by
24 private health care purchasers or carriers.

25 **Sec. 2.** RCW 70.250.010 and 2009 c 258 s 1 are each amended to read
26 as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise.

29 (1) "Advanced diagnostic imaging services" means magnetic resonance
30 imaging services, computed tomography services, positron emission
31 tomography services, cardiac nuclear medicine services, ultrasound, and
32 similar new imaging services.

33 (2) "Authority" means the Washington state health care authority.

34 (3) "Collaborative" means the Robert Bree collaborative established
35 in section 3 of this act.

36 (4) "Payor" means (~~public purchasers and~~) carriers licensed under
37 chapters 48.21, 48.41, 48.44, 48.46, and 48.62 RCW.

1 ~~((4) "Public purchaser" means the department of social and health~~
2 ~~services, the department of health, the department of labor and~~
3 ~~industries, the authority, and the Washington state health insurance~~
4 ~~pool)) (5) "Self-funded health plan" means an employer-sponsored health~~
5 ~~plan or Taft-Hartley plan that is not provided through a fully insured~~
6 ~~health carrier.~~

7 ~~((5)) (6) "State purchased health care" has the same meaning as~~
8 in RCW 41.05.011.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.250 RCW
10 to read as follows:

11 (1) Consistent with the authority granted in RCW 41.05.013, the
12 authority shall convene a collaborative, to be known as the Robert Bree
13 collaborative. The collaborative shall identify health care services
14 for which there are substantial variation in practice patterns or high
15 utilization trends in Washington state, without producing better care
16 outcomes for patients, that are indicators of poor quality and
17 potential waste in the health care system. On an annual basis, the
18 collaborative shall identify up to three health care services it will
19 address.

20 (2) For each health care service identified, the collaborative
21 shall:

22 (a) Analyze and identify evidence-based best practice approaches to
23 improve quality and reduce variation in use of the service, including
24 identification of guidelines or protocols applicable to the health care
25 service. In evaluating guidelines, the collaborative should identify
26 the highest quality guidelines based upon the most rigorous and
27 transparent methods for identification, rating, and translation of
28 evidence into practice recommendations.

29 (b) Identify data collection and reporting necessary to develop
30 baseline health service utilization rates and to measure the impact of
31 strategies adopted under this section. Methods for data collection and
32 reporting should strive to minimize cost and administrative effort
33 related to data collection and reporting wherever possible, including
34 the use of existing data resources and nonfee-based tools for
35 reporting.

36 (c) Identify strategies to increase use of the evidence-based best
37 practice approaches identified under (a) of this subsection in both

1 state purchased and privately purchased health care plans. Strategies
2 considered should include, but are not limited to: Identifying goals
3 for appropriate utilization rates and reduction in practice variation
4 among providers; peer-to-peer consultation or second opinions; provider
5 feedback reports; use of patient decision aids; incentives for
6 appropriate use of health care services; centers of excellence or other
7 provider qualification standards; quality improvement systems; and
8 service utilization and outcomes reporting, including public reporting.
9 In developing strategies, the collaborative should strongly consider
10 related efforts of organizations such as the Puget Sound health
11 alliance, the Washington state hospital association, the national
12 quality forum, the joint commission on accreditation of health care
13 organizations, the national committee for quality assurance, the
14 foundation for health care quality, and, where appropriate, more
15 focused quality improvement efforts, such as the Washington state
16 perinatal advisory committee and the Washington state surgical care and
17 outcomes assessment program. The collaborative shall provide an
18 opportunity for public comment on the strategies chosen before
19 finalizing their recommendations.

20 (3) For health care services identified by the collaborative for
21 which evidence about benefit and harm is inadequate or unavailable, the
22 collaborative may endorse coverage with evidence development. Such
23 coverage shall include items or services that have potential benefit
24 but lack adequate evidence about either the extent of potential benefit
25 or harm or the conditions or patients most likely to benefit or suffer
26 adverse consequences. In such cases, coverage may be conditioned on
27 the collection of additional clinical data that will inform patient-
28 oriented outcomes. Data collection must meet quality criteria such as
29 clinical registry or trial standards. Data collection must be designed
30 to inform clinical outcomes relevant to establishing coverage and be
31 time limited, with results available to the collaborative. Funding for
32 data collection must be obtained from sources other than the state
33 general fund.

34 (4) The governor shall appoint twenty members of the collaborative,
35 who must include:

36 (a) Two members, selected from health carriers or third-party
37 administrators that have the most fully insured and self-funded covered
38 lives in Washington state. The count of total covered lives includes

1 enrollment in all companies included in their holding company system.
2 Each health carrier or third-party administrator is entitled to no more
3 than a single position on the collaborative to represent all entities
4 under common ownership or control;

5 (b) One member, selected from the health maintenance organization
6 having the most fully insured and self-insured covered lives in
7 Washington state. The count of total lives includes enrollment in all
8 companies included in its holding company system. Each health
9 maintenance organization is entitled to no more than a single position
10 on the collaborative to represent all entities under common ownership
11 or control;

12 (c) One member, chosen from among three nominees submitted by the
13 association of Washington health plans, representing national health
14 carriers that operate in multiple states outside of the Pacific
15 Northwest;

16 (d) Four physicians, selected from lists of nominees submitted by
17 the Washington state medical association, as follows:

18 (i) Two physicians, one of whom must be a practicing primary care
19 physician, representing large multispecialty clinics with fifty or more
20 physicians, selected from a list of five nominees. The primary care
21 physician must be either a family physician, an internal medicine
22 physician, or a general pediatrician; and

23 (ii) Two physicians, one of whom must be a practicing primary care
24 physician, representing clinics with less than fifty physicians,
25 selected from a list of five nominees. The primary care physician must
26 be either a family physician, an internal medicine physician, or a
27 general pediatrician;

28 (e) One osteopathic physician, selected from a list of five
29 nominees submitted by the Washington state osteopathic medical
30 association;

31 (f) Two physicians representing the largest hospital-based
32 physician systems in the state, selected from a list of five nominees
33 submitted jointly by the Washington state medical association and the
34 Washington state hospital association;

35 (g) Three members representing hospital systems, at least one of
36 whom is responsible for quality, submitted from a list of six nominees
37 from the Washington state hospital association;

1 (h) Three members, representing self-funded purchasers of health
2 care services for employees;

3 (i) Two members, representing state purchased health care programs;
4 and

5 (j) One member, representing the Puget Sound health alliance.

6 (5) The governor shall appoint the chair of the collaborative.

7 (6) The collaborative shall add members to its membership or
8 establish clinical committees on an ad hoc basis for the purpose of
9 acquiring clinical expertise needed to accomplish its responsibilities
10 under this section and RCW 70.250.010 and 70.250.030. Membership of
11 clinical committees should reflect clinical expertise in the area of
12 health care services being addressed by the collaborative, including
13 clinicians involved in related quality improvement or comparative
14 effectiveness efforts, as well as nonphysician practitioners.

15 (7) Permanent and ad hoc members of the collaborative or any of its
16 committees may not have personal financial conflicts of interest that
17 could substantially influence or bias their participation. If a
18 collaborative or committee member has a personal financial conflict of
19 interest with respect to a particular health care service being
20 addressed by the collaborative, he or she shall disclose such an
21 interest. The collaborative must determine whether the member should
22 be recused from any deliberations or decisions related to that service.

23 (8) A person serving on the collaborative or any of its clinical
24 committees shall be immune from civil liability, whether direct or
25 derivative, for any decisions made in good faith while pursuing
26 activities associated with the work of collaborative or any of its
27 clinical committees.

28 (9) The collaborative shall actively solicit federal or private
29 funds and in-kind contributions necessary to complete its work in a
30 timely fashion. Available state funds may be used to support the work
31 of the collaborative when the collaborative has selected a health care
32 service that is a high utilization or high-cost service in state
33 purchased health care programs or the health care service is undergoing
34 evaluation in one or more state purchased health care programs and
35 coordination will reduce duplication of efforts. The collaborative
36 shall not begin the work described in this section unless sufficient
37 funds are received from private or federal resources, or available
38 state funds.

1 (10) No member of the collaborative or its committees may be
2 compensated for his or her service.

3 (11) The proceedings of the collaborative shall be open to the
4 public and notice of meetings shall be provided at least ten days prior
5 to a meeting.

6 (12) The collaborative shall report to the governor and legislature
7 regarding the health services areas it has chosen, strategies adopted,
8 and available information related to the impact of strategies adopted
9 in the previous three years on the cost and quality of care provided in
10 Washington state. The initial report must be submitted by November 15,
11 2011, with annual reports thereafter.

12 **Sec. 4.** RCW 70.250.030 and 2009 c 258 s 3 are each amended to read
13 as follows:

14 (1) No later than September 1, 2009, all state purchased health
15 care programs shall, except for state purchased health care services
16 that are purchased from or through health carriers as defined in RCW
17 48.43.005, implement evidence-based best practice guidelines or
18 protocols applicable to advanced diagnostic imaging services, and the
19 decision support tools to implement the guidelines or protocols,
20 identified under ((RCW 70.250.020)) section 3 of this act.

21 (2) By January 1, 2012, and every January 1st thereafter, all state
22 purchased health care programs must implement the evidence-based best
23 practice guidelines or protocols and strategies identified under
24 section 3 of this act. This requirement applies to health carriers, as
25 defined in RCW 48.43.005 and to entities acting as third-party
26 administrators that contract with state purchased health care programs
27 to provide or administer health benefits for enrollees of those
28 programs. If the collaborative fails to reach consensus within the
29 time frames identified in this section and section 3 of this act, state
30 purchased health care programs may pursue implementation of evidence-
31 based strategies on their own initiative.

32 NEW SECTION. **Sec. 5.** RCW 70.250.020 (Work group--Members--
33 Duties--Report--Expiration of work group) and 2009 c 258 s 2 are each
34 repealed.

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