

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1311

62nd Legislature
2011 Regular Session

Passed by the House April 15, 2011
Yeas 58 Nays 38

Speaker of the House of Representatives

Passed by the Senate April 6, 2011
Yeas 38 Nays 11

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1311** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1311

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

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, and similar new
32 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) If the collaborative chooses a health care service for which
21 there is substantial variation in practice patterns or a high or low
22 utilization trend in Washington state, and a lack of evidence-based
23 best practice approaches, it should consider strategies that will
24 promote improved care outcomes, such as patient decision aids, provider
25 feedback reports, centers of excellence or other provider qualification
26 standards, and research to improve care quality and outcomes.

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

29 (a) Two members, selected from health carriers or third-party
30 administrators that have the most fully insured and self-funded covered
31 lives in Washington state. The count of total covered lives includes
32 enrollment in all companies included in their holding company system.
33 Each health carrier or third-party administrator is entitled to no more
34 than a single position on the collaborative to represent all entities
35 under common ownership or control;

36 (b) One member, selected from the health maintenance organization
37 having the most fully insured and self-insured covered lives in
38 Washington state. The count of total lives includes enrollment in all

1 companies included in its holding company system. Each health
2 maintenance organization is entitled to no more than a single position
3 on the collaborative to represent all entities under common ownership
4 or control;

5 (c) One member, chosen from among three nominees submitted by the
6 association of Washington health plans, representing national health
7 carriers that operate in multiple states outside of the Pacific
8 Northwest;

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

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

16 (ii) Two physicians, one of whom must be a practicing primary care
17 physician, representing clinics with less than fifty physicians,
18 selected from a list of five nominees. The primary care physician must
19 be either a family physician, an internal medicine physician, or a
20 general pediatrician;

21 (e) One osteopathic physician, selected from a list of five
22 nominees submitted by the Washington state osteopathic medical
23 association;

24 (f) Two physicians representing the largest hospital-based
25 physician systems in the state, selected from a list of five nominees
26 submitted jointly by the Washington state medical association and the
27 Washington state hospital association;

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

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

33 (i) Two members, representing state purchased health care programs;
34 and

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

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

37 (6) The collaborative shall add members to its membership or
38 establish clinical committees for each therapy under review by the

1 collaborative for the purpose of acquiring clinical expertise needed to
2 accomplish its responsibilities under this section and RCW 70.250.010
3 and 70.250.030. Membership of clinical committees should reflect
4 clinical expertise in the area of health care services being addressed
5 by the collaborative, including clinicians involved in related quality
6 improvement or comparative effectiveness efforts, as well as
7 nonphysician practitioners. Each clinical committee shall include at
8 least two members of the specialty or subspecialty society most
9 experienced with the health service identified for review.

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

18 (8) A person serving on the collaborative or any of its clinical
19 committees shall be immune from civil liability, whether direct or
20 derivative, for any decisions made in good faith while pursuing
21 activities associated with the work of collaborative or any of its
22 clinical committees.

23 (9) The guidelines or protocols identified under this section shall
24 not be construed to establish the standard of care or duty of care owed
25 by health care providers in any cause of action occurring as a result
26 of health care.

27 (10) The collaborative shall actively solicit federal or private
28 funds and in-kind contributions necessary to complete its work in a
29 timely fashion. The collaborative shall not accept private funds if
30 receipt of such funding could present a potential conflict of interest
31 or bias in the collaborative's deliberations. Available state funds
32 may be used to support the work of the collaborative when the
33 collaborative has selected a health care service that is a high
34 utilization or high-cost service in state purchased health care
35 programs or the health care service is undergoing evaluation in one or
36 more state purchased health care programs and coordination will reduce
37 duplication of efforts. The collaborative shall not begin the work

1 described in this section unless sufficient funds are received from
2 private or federal resources, or available state funds.

3 (11) No member of the collaborative or its committees may be
4 compensated for his or her service.

5 (12) The proceedings of the collaborative shall be open to the
6 public and notice of meetings shall be provided at least twenty days
7 prior to a meeting.

8 (13) The collaborative shall report to the administrator of the
9 authority regarding the health services areas it has chosen and
10 strategies proposed. The administrator shall review the strategies
11 recommended in the report, giving strong consideration to the direction
12 provided in section 1 of this act and this section. The
13 administrator's review shall describe the outcomes of the review and
14 any decisions related to adoption of the recommended strategies by
15 state purchased health care programs. Following the administrator's
16 review, the collaborative shall report to the legislature and the
17 governor regarding chosen health services, proposed strategies, the
18 results of the administrator's review, and available information
19 related to the impact of strategies adopted in the previous three years
20 on the cost and quality of care provided in Washington state. The
21 initial report must be submitted by November 15, 2011, with annual
22 reports thereafter.

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

25 (1) No later than September 1, 2009, all state purchased health
26 care programs shall, except for state purchased health care services
27 that are purchased from or through health carriers as defined in RCW
28 48.43.005, implement evidence-based best practice guidelines or
29 protocols applicable to advanced diagnostic imaging services, and the
30 decision support tools to implement the guidelines or protocols,
31 identified under ((RCW 70.250.020)) section 3 of this act.

32 (2) By January 1, 2012, and every January 1st thereafter, all state
33 purchased health care programs must implement the evidence-based best
34 practice guidelines or protocols and strategies identified under
35 section 3 of this act, after the administrator, in consultation with
36 participating agencies, has affirmatively reviewed and endorsed the
37 recommendations. This requirement applies to health carriers, as

1 defined in RCW 48.43.005 and to entities acting as third-party
2 administrators that contract with state purchased health care programs
3 to provide or administer health benefits for enrollees of those
4 programs. If the collaborative fails to reach consensus within the
5 time frames identified in this section and section 3 of this act, state
6 purchased health care programs may pursue implementation of evidence-
7 based strategies on their own initiative.

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

--- END ---