

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5736

Chapter 515, Laws of 1993

(partial veto)

53rd Legislature
1993 Regular Session

WORKERS' COMPENSATION--CHIROPRACTIC CARE

EFFECTIVE DATE: 7/25/93

Passed by the Senate April 22, 1993
YEAS 38 NAYS 8

JOEL PRITCHARD

President of the Senate

Passed by the House April 9, 1993
YEAS 96 NAYS 2

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Approved May 18, 1993, with the
exception of sections 2 and 3, which
are vetoed.

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SUBSTITUTE SENATE BILL 5736 as passed
by the Senate and the House of
Representatives on the dates hereon
set forth.

MARTY BROWN

Secretary

FILED

May 18, 1993 - 7:21 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5736

AS AMENDED BY THE HOUSE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Senate Committee on Labor & Commerce (originally sponsored by
Senators Moore, Pelz and Fraser)

Read first time 03/03/93.

1 AN ACT Relating to chiropractic care for industrial insurance;
2 amending RCW 51.04.030, 51.32.112, 51.36.100, and 51.36.110; adding a
3 new section to chapter 51.04 RCW; and adding a new section to chapter
4 51.36 RCW.

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

6 **Sec. 1.** RCW 51.04.030 and 1989 c 189 s 1 are each amended to read
7 as follows:

8 The director shall, through the division of industrial insurance,
9 supervise the providing of prompt and efficient care and treatment,
10 including care provided by physicians' assistants governed by the
11 provisions of chapters 18.57A and 18.71A RCW, acting under a
12 supervising physician, and including chiropractic care, to workers
13 injured during the course of their employment at the least cost
14 consistent with promptness and efficiency, without discrimination or
15 favoritism, and with as great uniformity as the various and diverse
16 surrounding circumstances and locations of industries will permit and
17 to that end shall, from time to time, establish and promulgate and
18 supervise the administration of printed forms, rules, regulations, and
19 practices for the furnishing of such care and treatment: PROVIDED,

1 That, the department may recommend to an injured worker particular
2 health care services and providers where specialized treatment is
3 indicated or where cost effective payment levels or rates are obtained
4 by the department: AND PROVIDED FURTHER, That the department may enter
5 into contracts for goods and services including, but not limited to,
6 durable medical equipment so long as state-wide access to quality
7 service is maintained for injured workers.

8 The director shall make and, from time to time, change as may be,
9 and promulgate a fee bill of the maximum charges to be made by any
10 physician, surgeon, chiropractor, hospital, druggist, physicians'
11 assistants as defined in chapters 18.57A and 18.71A RCW, acting under
12 a supervising physician or other agency or person rendering services to
13 injured workers. No service covered under this title shall be charged
14 or paid at a rate or rates exceeding those specified in such fee bill,
15 and no contract providing for greater fees shall be valid as to the
16 excess.

17 The director or self-insurer, as the case may be, shall make a
18 record of the commencement of every disability and the termination
19 thereof and, when bills are rendered for the care and treatment of
20 injured workers, shall approve and pay those which conform to the
21 promulgated rules, regulations, and practices of the director and may
22 reject any bill or item thereof incurred in violation of the principles
23 laid down in this section or the rules and regulations promulgated
24 under it.

25 ***NEW SECTION.** *Sec. 2. A new section is added to chapter 51.04 RCW*
26 *to read as follows:*

27 *The director shall appoint an associate medical director for*
28 *chiropractic. The associate medical director must be eligible to be*
29 *licensed under chapter 18.25 RCW.*

30 **Sec. 2 was vetoed, see message at end of chapter.*

31 ***NEW SECTION.** *Sec. 3. A new section is added to chapter 51.36 RCW*
32 *to read as follows:*

33 *(1) The health services that are available to an injured worker*
34 *under RCW 51.36.010 include chiropractic treatment in appropriate cases*
35 *within the scope of practice under chapter 18.25 RCW. As appropriate,*
36 *and subject to the requirements for examinations of workers specified*
37 *in this title, a worker may be required by the department to undergo*

1 *chiropractic examination by a chiropractor licensed under chapter 18.25*
2 *RCW for the purpose of assisting the department in making*
3 *determinations for the closure of a claim, in assessing the necessity*
4 *and appropriateness of chiropractic care, or in making other*
5 *determinations within the scope of chiropractic practice related to the*
6 *worker's industrial injury.*

7 (2) *The department may establish treatment and utilization*
8 *standards for chiropractic treatment in consultation with*
9 *representatives of the chiropractic profession. The standards, if any,*
10 *may be developed in conjunction with the department of health. The*
11 *standards should include some or all of the following:*

12 (a) *Standards designed to assure quality treatment and to maximize*
13 *recovery from the industrial injury;*

14 (b) *Standards designed to contain costs, consistent with assured*
15 *access to medically necessary treatment;*

16 (c) *Standards that permit review of an injured worker's progress*
17 *toward recovery after a stated number of chiropractic treatments. The*
18 *standards may require review of chiropractic treatment based on a*
19 *specified number of treatments, but the standards may not require*
20 *termination of treatment based solely on the number of treatments;*

21 (d) *Standards for requesting consultation with chiropractors by the*
22 *department or other health services providers on the necessity or*
23 *appropriateness of chiropractic care or other subjects within the*
24 *chiropractic scope of practice.*

25 *Sec. 3 was vetoed, see message at end of chapter.

26 **Sec. 4.** *RCW 51.32.112 and 1988 c 114 s 2 are each amended to read*
27 *as follows:*

28 (1) *The department shall develop standards for the conduct of*
29 *special medical examinations to determine permanent disabilities,*
30 *including, but not limited to:*

31 (a) *The qualifications of persons conducting the examinations;*

32 (b) *The criteria for conducting the examinations, including*
33 *guidelines for the appropriate treatment of injured workers during the*
34 *examination; and*

35 (c) *The content of examination reports.*

36 (2) *Within the appropriate scope of practice, chiropractors*
37 *licensed under chapter 18.25 RCW may conduct special medical*
38 *examinations to determine permanent disabilities in consultation with*

1 physicians licensed under chapter 18.57 or 18.71 RCW. The department,
2 in its discretion, may request that a special medical examination be
3 conducted by a single chiropractor if the department determines that
4 the sole issues involved in the examination are within the scope of
5 practice under chapter 18.25 RCW. However, nothing in this section
6 authorizes the use as evidence before the board of a chiropractor's
7 determination of the extent of a worker's permanent disability if the
8 determination is not requested by the department.

9 (3) The department shall investigate the amount of examination fees
10 received by persons conducting special medical examinations to
11 determine permanent disabilities, including total compensation received
12 for examinations of department and self- insured claimants, and
13 establish compensation guidelines and compensation reporting criteria.

14 ~~((+3+))~~ (4) The department shall investigate the level of
15 compliance of self-insurers with the requirement of full reporting of
16 claims information to the department, particularly with respect to
17 medical examinations, and develop effective enforcement procedures or
18 recommendations for legislation if needed.

19 **Sec. 5.** RCW 51.36.100 and 1986 c 200 s 1 are each amended to read
20 as follows:

21 The legislature finds and declares it to be in the public interest
22 of the residents of the state of Washington that a proper regulatory
23 and inspection program be instituted in connection with the provision
24 of medical, chiropractic, dental, vocational, and other health services
25 to industrially injured workers pursuant to Title 51 RCW. In order to
26 effectively accomplish such purpose and to assure that the industrially
27 injured worker receives such services as are paid for by the state of
28 Washington, the acceptance by the industrially injured worker of such
29 services, and the request by a provider of services for reimbursement
30 for providing such services, shall authorize the director of the
31 department of labor and industries or the director's authorized
32 representative to inspect and audit all records in connection with the
33 provision of such services.

34 **Sec. 6.** RCW 51.36.110 and 1986 c 200 s 2 are each amended to read
35 as follows:

36 The director of the department of labor and industries or the
37 director's authorized representative shall have the authority to:

1 (1) Conduct audits and investigations of providers of medical,
2 chiropractic, dental, vocational, and other health services furnished
3 to industrially injured workers pursuant to Title 51 RCW. In the
4 conduct of such audits or investigations, the director or the
5 director's authorized representatives may examine all records, or
6 portions thereof, including patient records, for which services were
7 rendered by a health services provider and reimbursed by the
8 department, notwithstanding the provisions of any other statute which
9 may make or purport to make such records privileged or confidential:
10 PROVIDED, That no original patient records shall be removed from the
11 premises of the health services provider, and that the disclosure of
12 any records or information obtained under authority of this section by
13 the department of labor and industries is prohibited and constitutes a
14 violation of RCW 42.22.040, unless such disclosure is directly
15 connected to the official duties of the department: AND PROVIDED
16 FURTHER, That the disclosure of patient information as required under
17 this section shall not subject any physician or other health services
18 provider to any liability for breach of any confidential relationships
19 between the provider and the patient: AND PROVIDED FURTHER, That the
20 director or the director's authorized representative shall destroy all
21 copies of patient medical records in their possession upon completion
22 of the audit, investigation, or proceedings;

23 (2) Approve or deny applications to participate as a provider of
24 services furnished to industrially injured workers pursuant to Title 51
25 RCW; and

26 (3) Terminate or suspend eligibility to participate as a provider
27 of services furnished to industrially injured workers pursuant to Title
28 51 RCW.

Passed the Senate April 22, 1993.

Passed the House April 9, 1993.

Approved by the Governor May 18, 1993, with the exception of
certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1993.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval of sections 2 and 3,
3 Substitute Senate Bill No. 5736 entitled:

4 "AN ACT Relating to chiropractic care for industrial insurance;"

5 Section 2 of Substitute Senate Bill No. 5736 would create the
6 position of associate medical director for chiropractic in state
7 statute. It is my understanding that the Department of Labor and
8 Industries has funding for such a position and intends to hire a

1 qualified candidate. No position other than the Director of the
2 Department of Labor and Industries is currently specified in statute.
3 This requirement appears to be overly prescriptive and limits the
4 discretion of the agency's director.

5 Section 3 would prohibit the termination of treatment based solely
6 on the number of treatments. This provision is not consistent with the
7 direction in which our state is moving with regard to health care
8 reform.

9 For these reasons, I have vetoed sections 2 and 3, of Substitute
10 Senate Bill No. 5736.

11 With the exception of sections 2 and 3, Substitute Senate Bill No.
12 5736 is approved."