
SECOND SUBSTITUTE SENATE BILL 5935

State of Washington**54th Legislature****1995 Regular Session**

By Senate Committee on Ways & Means (originally sponsored by Senators Quigley, Wojahn, Franklin, C. Anderson, Fairley, Gaspard, Haugen, Snyder, Pelz, Spanel, Sheldon, Loveland, Fraser, Kohl, Hargrove, McAuliffe, Prentice, Heavey, Drew, Rasmussen, Bauer, Rinehart, Sutherland, Smith, Owen and Winsley)

Read first time 03/31/95.

1 AN ACT Relating to consumer protection in the purchase of health
2 care; amending RCW 43.72.010, 43.72.040, 43.72.100, 43.72.190,
3 43.72.070, 48.30.010, 48.44.490, 48.46.560, 70.47.---, and 18.130.320;
4 adding new sections to chapter 43.72 RCW; adding a new section to
5 chapter 70.47 RCW; adding a new section to chapter 41.05 RCW; adding
6 new sections to chapter 43.70 RCW; adding a new section to chapter
7 70.41 RCW; adding new sections to Title 48 RCW; adding a new section to
8 chapter 43.19 RCW; adding a new section to Title 51 RCW; adding a new
9 chapter to Title 48 RCW; creating new sections; repealing RCW
10 43.72.200, 43.72.220, 43.72.240, 43.72.810, 43.72.210, 43.72.120,
11 43.72.090, 48.43.010, 48.43.020, 48.43.030, 48.43.040, 48.43.050,
12 48.43.060, 48.43.070, 48.43.080, 48.43.090, 48.43.100, 48.43.110,
13 48.43.120, 48.43.130, 48.43.150, 43.72.060, 43.72.140, and 43.72.150;
14 prescribing penalties; and declaring an emergency.

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

16 **PROTECTION OF CONSUMER CHOICE AND QUALITY HEALTH CARE**

17 NEW SECTION. **Sec. 1.** The legislature intends through the
18 enactment of this act to:

1 (1) Protect an individual's right to decide from which provider he
2 or she will receive health services and to maintain a high quality
3 health care system. The legislature intends to achieve this by:
4 Requiring certain insurers to offer a plan that allows consumers to see
5 "any willing provider"; maintaining traditional indemnity insurance
6 plans in addition to managed care plans; allowing the use of medical
7 savings accounts; providing whistleblower protection for anyone who
8 complains about the quality of care in any health facility or within
9 any health plan; requiring full disclosure of the contents of a health
10 plan; requiring disclosure of staff ratios in hospitals and
11 qualifications of providers; requiring plans to conduct annual patient
12 satisfaction surveys; and allowing employers, individuals, health care
13 facilities, and religiously sponsored health plans to choose
14 nonparticipation with any health service to which they object;

15 (2) Eliminate preexisting condition exclusions in insurance,
16 prevent cancellation of insurance because of sickness, and allow people
17 to change jobs without losing their health care coverage. The
18 legislature will achieve this by: Requiring insurers to renew policies
19 as long as the premiums are duly paid; prohibiting insurers from
20 denying a person insurance coverage because of a preexisting condition;
21 and allowing the insurance commissioner to assess penalties for
22 breaches of these provisions of law;

23 (3) Minimize the role of government in the state health care
24 system. The legislature intends to achieve this by: Abolishing
25 unneeded powers and duties of the health services commission; and
26 eliminating unnecessary regulations related to certified health plans;

27 (4) Protect individual's, family's, and businesses' ability to
28 maintain their health insurance and to allow those presently uninsured
29 to purchase health insurance by making health insurance more
30 affordable. The legislature will achieve this by allowing insurers to
31 give limited discounts based on age and healthy lifestyle factors;
32 allowing greater flexibility in the use of deductibles and coinsurance;
33 by preventing self-insured companies from initially profiting from a
34 healthier and less costly employee insurance pool and later cost-
35 shifting if their employee insurance pool becomes less healthy and more
36 costly; prohibiting insurers from cost-shifting from big business to
37 small business and individuals in the sale of supplemental benefits;
38 and permitting cooperative health care purchasing groups; and

1 (5) Advance the fundamental goal that all Washingtonians should
2 have access to health insurance and intends to achieve universal access
3 through incentives rather than an employer mandate. The legislature
4 intends to do this by: Expanding the existing basic health plan to two
5 hundred thousand enrollees; expanding the availability of medicaid to
6 an additional one hundred twenty-five thousand children; giving
7 preference in state government contracts to employers who provide
8 health insurance to their employees; allowing employers to sign up for
9 basic health plan health insurance through their periodic filings with
10 the department of labor and industries; and eliminating the employer
11 mandate.

12 **Sec. 2.** RCW 43.72.010 and 1994 c 4 s 1 are each amended to read as
13 follows:

14 In this chapter and chapter 43.70 RCW, unless the context otherwise
15 requires:

16 (1) "Certified health plan" or "plan" means a disability insurer
17 regulated under chapter 48.20 or 48.21 RCW, a health care service
18 contractor as defined in RCW 48.44.010, or a health maintenance
19 organization as defined in RCW 48.46.020(~~(, or an entity certified in~~
20 ~~accordance with RCW 48.43.020 through 48.43.120)~~).

21 (2) "Chair" means the presiding officer of the Washington health
22 services commission.

23 (3) "Commission" or "health services commission" means the
24 Washington health services commission.

25 (4) "Community rate" (~~means~~):

26 (a) With respect to the minimum list of health services means the
27 rating method used to establish the premium for the ((uniform benefits
28 package)) minimum list of health services adjusted to reflect
29 actuarially demonstrated differences in utilization or cost
30 attributable to geographic region, wellness factors, age, and family
31 size as determined by the commission.

32 (i) Adjustments to the rates for a certified health plan product
33 permitted for age shall not result in a rate per enrollee of more than
34 three hundred percent of the lowest rate for any enrollee in 1996, and
35 two hundred fifty percent thereafter. Such age adjustments shall not
36 use age brackets smaller than five-year increments, and shall begin
37 with age twenty and end with age sixty-five;

1 (ii) Adjustments to the rates for a certified health plan product
2 permitted for wellness factors shall be limited to plus or minus ten
3 percent;

4 (iii) The rate charged for any certified health plan product may
5 not be adjusted more frequently than annually except for rate
6 decreases, except that rates may be changed to reflect enrollment
7 changes, changes in family composition of the enrollee, or benefit
8 changes to the health plan requested by the employer or enrollee;

9 (iv) Adjustment to the rates are permitted for coverage of one
10 child; and

11 (v) Wellness factors include activities, such as smoking cessation,
12 injury and accident prevention, reduction of alcohol or other drug
13 misuse, appropriate weight reduction, exercise, automobile and
14 motorcycle safety, blood cholesterol reduction, blood sugar control,
15 and nutrition education for the purpose of improving enrollee health
16 status and reducing health service costs.

17 (b) With respect to supplemental benefits, means a rating method
18 used to establish the premium for supplemental benefits adjusted to
19 reflect actuarially demonstrated differences in utilization.

20 (5) "Continuous quality improvement and total quality management"
21 means a continuous process to improve health services while reducing
22 costs.

23 (6) "Employee" means a resident who is in the employment of an
24 employer, as defined by chapter 50.04 RCW.

25 (7) "Enrollee" means any person who is a Washington resident
26 enrolled in a certified health plan.

27 (8) "Enrollee point of service cost-sharing" means amounts paid to
28 certified health plans directly providing services, health care
29 providers, or health care facilities by enrollees for receipt of
30 specific (~~(uniform benefits package)~~) minimum list of services, and may
31 include copayments, coinsurance, or deductibles(~~(, that together must~~
32 ~~be actuarially equivalent across plans and)) within overall limits
33 established by the commission.~~

34 The legislature approves the enrollee point of service cost-sharing
35 provisions set forth as of the effective date of this act in proposed
36 WAC 245-03-610 through 245-03-660 and directs the commission to adopt
37 those rules as submitted to the legislature.

38 Each certified health plan, other than health maintenance
39 organizations, will offer the minimum list of health services with at

1 least two of the following set of deductible options, revised
2 biannually to account for inflation using the consumer price index and
3 rounded to the nearest whole fifty dollars:

4 (a) Zero deductible;

5 (b) Two hundred fifty dollars deductible for individuals, seven
6 hundred fifty dollars deductible for families;

7 (c) Five hundred dollars deductible for individuals, one thousand
8 dollars deductible for families;

9 (d) One thousand dollars deductible for individuals, two thousand
10 dollars deductible for families.

11 (9) "Enrollee premium sharing" means that portion of the premium
12 that is paid by enrollees or their family members.

13 (10) "Federal poverty level" means the federal poverty guidelines
14 determined annually by the United States department of health and human
15 services or successor agency.

16 (11) "Health care facility" or "facility" means hospices licensed
17 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,
18 rural health care facilities as defined in RCW 70.175.020, psychiatric
19 hospitals licensed under chapter 71.12 RCW, nursing homes licensed
20 under chapter 18.51 RCW, community mental health centers licensed under
21 chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed
22 under chapter 70.41 RCW, ambulatory diagnostic, treatment or surgical
23 facilities licensed under chapter 70.41 RCW, drug and alcohol treatment
24 facilities licensed under chapter 70.96A RCW, and home health agencies
25 licensed under chapter 70.127 RCW, and includes such facilities if
26 owned and operated by a political subdivision or instrumentality of the
27 state and such other facilities as required by federal law and
28 implementing regulations, but does not include Christian Science
29 sanatoriums operated, listed, or certified by the First Church of
30 Christ Scientist, Boston, Massachusetts.

31 (12) "Health care provider" or "provider" means:

32 (a) A person regulated under Title 18 RCW ((and)) or chapter 70.127
33 RCW, to practice health or health-related services or otherwise
34 practicing health care services in this state consistent with state
35 law; or

36 (b) An employee or agent of a person described in (a) of this
37 subsection, acting in the course and scope of his or her employment.

38 (13) "Health insurance purchasing cooperative" or "cooperative"
39 means a member-owned and governed nonprofit organization certified in

1 accordance with RCW 43.72.080 and 48.43.160. Any group of individuals
2 may form a cooperative health care purchasing group in addition to and
3 separate from the authority of health insurance purchasing cooperatives
4 certified in accordance with RCW 43.72.080 and 48.43.160.

5 (14) "Long-term care" means institutional, residential, outpatient,
6 or community-based services that meet the individual needs of persons
7 of all ages who are limited in their functional capacities or have
8 disabilities and require assistance with performing two or more
9 activities of daily living for an extended or indefinite period of
10 time. These services include case management, protective supervision,
11 in-home care, nursing services, convalescent, custodial, chronic, and
12 terminally ill care.

13 (15) "Major capital expenditure" means any project or expenditure
14 for capital construction, renovations, or acquisition, including
15 medical technological equipment, as defined by the commission, costing
16 more than one million dollars.

17 (16) "Managed care" means an integrated system of insurance,
18 financing, and health services delivery functions that: (a) Assumes
19 financial risk for delivery of health services and uses a defined
20 network of providers; ~~((or))~~ (b) assumes financial risk for delivery of
21 health services and promotes the efficient delivery of health services
22 through provider assumption of some financial risk including
23 capitation, prospective payment, resource-based relative value scales,
24 fee schedules, or similar method of limiting payments to health care
25 providers; or (c) assumes financial risk for delivery of health
26 services and includes such cost-containment features as second surgical
27 opinions, precertification authorization, utilization review, or high
28 cost case management.

29 (17) "Maximum enrollee financial participation" means the income-
30 related total annual payments that may be required of an enrollee per
31 family who chooses one of the three lowest priced ~~((uniform benefits~~
32 ~~packages))~~ minimum list of services offered by plans in a geographic
33 region including both premium sharing and enrollee point of service
34 cost-sharing.

35 (18) "Minimum list of health services," "minimum health services
36 list," or "minimum health services" means that schedule of covered
37 health services, including the description of how those benefits are to
38 be administered, that are required to be delivered to an enrollee under
39 the basic health plan, as revised from time to time.

1 (~~((18))~~) (19) "Persons of color" means Asians/Pacific Islanders,
2 African, Hispanic, and Native Americans.

3 (~~((19))~~) (20) "Premium" means all sums charged, received, or
4 deposited by a certified health plan as consideration for (~~((a uniform~~
5 ~~benefits package))~~) the minimum list of health services or the
6 continuance of (~~((a uniform benefits package))~~) the minimum list of
7 health services. Any assessment, or any "membership," "policy,"
8 "contract," "service," or similar fee or charge made by the certified
9 health plan in consideration for the (~~((uniform benefits package))~~)
10 minimum list of health services is deemed part of the premium.
11 "Premium" shall not include amounts paid as enrollee point of service
12 cost-sharing.

13 (~~((20))~~) (21) "Qualified employee" means an employee who is
14 employed at least thirty hours during a week or one hundred twenty
15 hours during a calendar month.

16 (~~((21) "Registered employer health plan" means a health plan~~
17 ~~established by a private employer of more than seven thousand active~~
18 ~~employees in this state solely for the benefit of such employees and~~
19 ~~their dependents and that meets the requirements of RCW 43.72.120.~~
20 ~~Nothing contained in this subsection shall be deemed to preclude the~~
21 ~~plan from providing benefits to retirees of the employer.))~~)

22 (22) "Supplemental benefits" means those appropriate and effective
23 health services that are not included in the (~~((uniform benefits~~
24 ~~package))~~) minimum list of health services or that expand the type or
25 level of health services available under the (~~((uniform benefits~~
26 ~~package))~~) minimum list of health services and that are offered to all
27 residents in accordance with the provisions of RCW 43.72.160 and
28 43.72.170.

29 (23) "Technology" means the drugs, devices, equipment, and medical
30 or surgical procedures used in the delivery of health services, and the
31 organizational or supportive systems within which such services are
32 provided. It also means sophisticated and complicated machinery
33 developed as a result of ongoing research in the basic biological and
34 physical sciences, clinical medicine, electronics, and computer
35 sciences, as well as specialized professionals, medical equipment,
36 procedures, and chemical formulations used for both diagnostic and
37 therapeutic purposes.

38 (24) "Uniform benefits package" or "package" means (~~((those~~
39 ~~appropriate and effective health services, defined by the commission~~

1 under RCW 43.72.130, that must be offered to all Washington residents
2 through certified health plans.)) the "minimum list of health
3 services." References to "uniform benefits package" after the
4 effective date of this act, throughout the Revised Code of Washington
5 shall be construed to mean "minimum list of health services."

6 (25) "Washington resident" or "resident" means a person who intends
7 to reside in the state permanently or indefinitely and who did not move
8 to Washington for the primary purpose of securing health services under
9 ((RCW 43.72.090 through 43.72.240, 43.72.300, 43.72.310, 43.72.800))
10 this chapter, and chapters 48.43 and 48.85 RCW. "Washington resident"
11 also includes people and their accompanying family members who are
12 residing in the state for the purpose of engaging in employment for at
13 least one month, who did not enter the state for the primary purpose of
14 obtaining health services. The confinement of a person in a nursing
15 home, hospital, or other medical institution in the state shall not by
16 itself be sufficient to qualify such person as a resident.

17 **Sec. 3.** RCW 43.72.040 and 1994 c 4 s 3 are each amended to read as
18 follows:

19 The commission has the following powers and duties:

20 (1) ((Ensure that all residents of Washington state are enrolled in
21 a certified health plan to receive the uniform benefits package,
22 regardless of age, sex, family structure, ethnicity, race, health
23 condition, geographic location, employment, or economic status.

24 (2)) Endeavor to ensure that all residents of Washington state
25 have access to appropriate, timely, confidential, and effective health
26 services, and monitor the degree of access to such services. If the
27 commission finds that individuals or populations lack access to
28 certified health plan services, the commission shall:

29 (a) Authorize appropriate state agencies, local health departments,
30 community or migrant health clinics, public hospital districts, or
31 other nonprofit health service entities to take actions necessary to
32 assure such access. This includes authority to contract for or
33 directly deliver services described within the ((uniform benefits
34 package)) minimum list of health services to special populations; or

35 (b) Notify appropriate certified health plans and the insurance
36 commissioner of such findings. The commission shall adopt by rule
37 standards by which the insurance commissioner may, in such event,
38 require certified health plans in closest proximity to such individuals

1 and populations to extend their catchment areas to those individuals
2 and populations and offer them enrollment.

3 ~~((3))~~ (2) Adopt necessary rules in accordance with chapter 34.05
4 RCW to carry out the purposes of chapter 492, Laws of 1993. An initial
5 set of draft rules establishing at least the commission's organization
6 structure, the uniform benefits package, and standards for certified
7 health plan certification, must be submitted in draft form to
8 appropriate committees of the legislature by December 1, 1994.

9 ~~((4))~~ (3) Establish and modify as necessary, in consultation with
10 the state board of health and the department of health, and in
11 coordination with the planning process set forth in RCW 43.70.520, a
12 uniform set of health services ~~((based on the recommendations of the~~
13 ~~health care cost control and access commission established under House~~
14 ~~Concurrent Resolution No. 4443 adopted by the legislature in 1990.~~

15 ~~(5)~~ ~~Establish and modify as necessary the uniform benefits package~~
16 ~~as provided in RCW 43.72.130, which shall be offered to enrollees of a~~
17 ~~certified health plan. The benefit package shall be provided at no~~
18 ~~more than the maximum premium specified in subsection (6) of this~~
19 ~~section)).~~

20 ~~((6)(a))~~ (4) Establish for each year a community-rated maximum
21 premium for the ~~((uniform benefits package))~~ minimum list of health
22 services, adjusted for enrollee cost-sharing, that shall operate to
23 control overall health care costs. The maximum premium cost of the
24 ~~((uniform benefits package))~~ minimum list of health services in the
25 base year 1995 shall be established upon an actuarial determination of
26 the costs of providing the ~~((uniform benefits package))~~ minimum list of
27 health services and such other cost impacts as may be deemed relevant
28 by the commission. Beginning in 1996, the growth rate of the premium
29 cost of the ~~((uniform benefits package))~~ minimum list of health
30 services for each certified health plan shall be allowed to increase by
31 a rate no greater than the average growth rate in the cost of the
32 package between 1990 and 1993 as actuarially determined, reduced by two
33 percentage points per year until the growth rate is no greater than the
34 five-year rolling average of growth in Washington per capita personal
35 income, as determined by the office of financial management.

36 ~~((b)~~ ~~In establishing the community-rated maximum premium under~~
37 ~~this subsection, the commission shall review various methods for~~
38 ~~establishing the community-rated maximum premium and shall recommend~~
39 ~~such methods to the legislature by December 1, 1994.~~

1 The commission may develop and recommend a rate for employees that
2 provides nominal, if any, variance between the rate for individual
3 employees and employees with dependents to minimize any economic
4 incentive to an employer to discriminate between prospective employees
5 based upon whether or not they have dependents for whom coverage would
6 be required.

7 (c) If the commission adds or deletes services or benefits to the
8 uniform benefits package in subsequent years, it may increase or
9 decrease the maximum premium to reflect the actual cost experience of
10 a broad sample of providers of that service in the state, considering
11 the factors enumerated in (a) of this subsection and adjusted
12 actuarially. The addition of services or benefits shall not result in
13 a redetermination of the entire cost of the uniform benefits package.

14 (d) The level of state expenditures for the uniform benefits
15 package shall be limited to the appropriation of funds specifically for
16 this purpose.

17 (7) Determine the need for medical risk adjustment mechanisms to
18 minimize financial incentives for certified health plans to enroll
19 individuals who present lower health risks and avoid enrolling
20 individuals who present higher health risks, and to minimize financial
21 incentives for employer hiring practices that discriminate against
22 individuals who present higher health risks. In the design of medical
23 risk distribution mechanisms under this subsection, the commission
24 shall (a) balance the benefits of price competition with the need to
25 protect certified health plans from any unsustainable negative effects
26 of adverse selection; (b) consider the development of a system that
27 creates a risk profile of each certified health plan's enrollee
28 population that does not create disincentives for a plan to control
29 benefit utilization, that requires contributions from plans that enjoy
30 a low-risk enrollee population to plans that have a high-risk enrollee
31 population, and that does not permit an adjustment of the premium
32 charged for the uniform benefits package or supplemental coverage based
33 upon either receipt or contribution of assessments; and (c) consider
34 whether registered employer health plans should be included in any
35 medical risk adjustment mechanism. Proposed medical risk adjustment
36 mechanisms shall be submitted to the legislature as provided in RCW
37 43.72.180.

1 ~~(8))~~ (5) Design a mechanism to assure minors have access to
2 confidential health care services as currently provided in RCW
3 70.24.110 and 71.34.030.

4 ~~((9))~~ (6) Monitor the actual growth in total annual health
5 services costs.

6 ~~((10))~~ (7) Monitor the increased application of technology as
7 required by chapter 492, Laws of 1993 and take necessary action to
8 ensure that such application is made in a cost-effective and efficient
9 manner and consistent with existing laws that protect individual
10 privacy.

11 ~~((11))~~ (8) Establish reporting requirements for certified health
12 plans that own or manage health care facilities, health care
13 facilities, and health care providers to periodically report to the
14 commission regarding major capital expenditures of the plans. The
15 commission shall review and monitor such reports and shall report to
16 the legislature regarding major capital expenditures on at least an
17 annual basis. The Washington health care facilities authority and the
18 commission shall develop standards jointly for evaluating and approving
19 major capital expenditure financing through the Washington health care
20 facilities authority, as authorized pursuant to chapter 70.37 RCW. By
21 December 1, 1994, the commission and the authority shall submit jointly
22 to the legislature such proposed standards. The commission and the
23 authority shall, after legislative review, but no later than June 1,
24 1995, publish such standards. Upon publication, the authority may not
25 approve financing for major capital expenditures unless approved by the
26 commission.

27 ~~((12))~~ (9) Establish maximum enrollee financial participation
28 levels. The levels shall be related to enrollee household income.

29 ~~((13) Establish rules requiring employee enrollee premium sharing,~~
30 ~~as defined in RCW 43.72.010(9), be paid through deductions from wages~~
31 ~~or earnings.~~

32 ~~(14))~~ (10) For health services provided under the ~~((uniform~~
33 ~~benefits package))~~ minimum list of health services and supplemental
34 benefits, adopt standards for enrollment, and standardized billing and
35 claims processing forms. The standards shall ensure that these
36 procedures minimize administrative burdens on health care providers,
37 health care facilities, certified health plans, and consumers. Subject
38 to federal approval or phase-in schedules whenever necessary or

1 appropriate, the standards also shall apply to state-purchased health
2 services, as defined in RCW 41.05.011.

3 ~~((15))~~ (11) Propose that certified health plans adopt certain
4 practice indicators or risk management protocols for quality assurance,
5 utilization review, or provider payment. The commission may consider
6 indicators or protocols recommended according to RCW 43.70.500 for
7 these purposes.

8 ~~((16))~~ (12) Propose other guidelines to certified health plans
9 for utilization management, use of technology and methods of payment,
10 such as diagnosis-related groups and a resource-based relative value
11 scale. Such guidelines shall be voluntary and shall be designed to
12 promote improved management of care, and provide incentives for
13 improved efficiency and effectiveness within the delivery system.

14 ~~((17))~~ (13) Adopt standards and oversee and develop policy for
15 personal health data and information system as provided in chapter
16 70.170 RCW.

17 ~~((18))~~ (14) Adopt standards that prevent conflict of interest by
18 health care providers as provided in RCW 18.130.320.

19 ~~((19))~~ (15) At the appropriate juncture and in the fullness of
20 time, consider the extent to which ~~((medical research and))~~ health
21 professions training activities should be included within the health
22 service system set forth in chapter 492, Laws of 1993.

23 ~~((20))~~ (16) Evaluate and monitor the extent to which racial and
24 ethnic minorities have access to and receive health services within the
25 state, and develop strategies to address barriers to access.

26 ~~((21))~~ (17) Develop standards for the certification process to
27 certify health plans and employer health plans to provide the ~~((uniform
28 benefits package))~~ minimum list of health services, according to the
29 provisions for certified health plans and registered employer health
30 plans under chapter 492, Laws of 1993.

31 ~~((22) Develop rules for implementation of individual and employer
32 participation under RCW 43.72.210 and 43.72.220 specifically applicable
33 to persons who work in this state but do not live in the state or
34 persons who live in this state but work outside of the state. The
35 rules shall be designed so that these persons receive coverage and
36 financial requirements that are comparable to that received by persons
37 who both live and work in the state.~~

38 ~~(23) After receiving advice from the health services effectiveness
39 committee, adopt rules that must be used by certified health plans,~~

1 disability insurers, health care service contractors, and health
2 maintenance organizations to determine whether a procedure, treatment,
3 drug, or other health service is no longer experimental or
4 investigative.

5 ~~(24) Establish a process for purchase of uniform benefits package~~
6 ~~services by enrollees when they are out of state.~~

7 ~~(25) Develop recommendations to the legislature as to whether state~~
8 ~~and school district employees, on whose behalf health benefits are or~~
9 ~~will be purchased by the health care authority pursuant to chapter~~
10 ~~41.05 RCW, should have the option to purchase health benefits through~~
11 ~~health insurance purchasing cooperatives on and after July 1, 1997. In~~
12 ~~developing its recommendations, the commission shall consider:~~

13 ~~(a) The impact of state or school district employees purchasing~~
14 ~~through health insurance purchasing cooperatives on the ability of the~~
15 ~~state to control its health care costs; and~~

16 ~~(b) Whether state or school district employees purchasing through~~
17 ~~health insurance purchasing cooperatives will result in inequities in~~
18 ~~health benefits between or within groups of state and school district~~
19 ~~employees.~~

20 ~~(26) Establish guidelines for providers dealing with terminal or~~
21 ~~static conditions, taking into consideration the ethics of providers,~~
22 ~~patient and family wishes, costs, and survival possibilities.~~

23 ~~(27) Evaluate the extent to which Taft Hartley health care trusts~~
24 ~~provide benefits to certain individuals in the state; review the~~
25 ~~federal laws under which these trusts are organized; and make~~
26 ~~appropriate recommendations to the governor and the legislature on or~~
27 ~~before December 1, 1994, as to whether these trusts should be brought~~
28 ~~under the provisions of chapter 492, Laws of 1993 when it is fully~~
29 ~~implemented, and if the commission recommends inclusion of the trusts,~~
30 ~~how to implement such inclusion.~~

31 ~~(28))) (18) Evaluate whether Washington is experiencing a higher~~
32 ~~percentage in in-migration of residents from other states and~~
33 ~~territories than would be expected by normal trends as a result of the~~
34 ~~availability of unsubsidized and subsidized health care benefits for~~
35 ~~all residents and report to the governor and the legislature their~~
36 ~~findings.~~

37 ~~((29) In developing the uniform benefits package and other~~
38 ~~standards pursuant to this section, consider the likelihood of the~~

1 ~~establishment of a national health services plan adopted by the federal~~
2 ~~government and its implications.~~

3 ~~(30))~~ (19) Evaluate the effect of reforms under chapter 492, Laws
4 of 1993 on access to care and economic development in rural areas.

5 (20) Periodically make recommendations to the appropriate
6 committees of the legislature and the governor regarding the minimum
7 list of health services.

8 (21) Review and report on the use of medical savings accounts,
9 including their impact on health of participants, and the cost of
10 health insurance and cost shifting to, or from, other state residents
11 who purchase insurance.

12 (22) Conduct a study to identify the number of children with
13 special health care needs and the cost of providing their health care.
14 Children with special health care needs may include children who have
15 multiple diagnoses including birth defects, congenital heart defects,
16 cancer, kidney disease, respiratory, metabolic and neurological
17 problems, diabetes, sickle cell disease, HIV infection, rheumatological
18 disorders, and posttraumatic injuries, any of which may require care
19 for longer than a year. The commission shall make recommendations on
20 an optimal system for managing health care services to children with
21 special needs and report back to the legislature on their findings by
22 January 1, 1996.

23 (23) Perform such planning and advisory duties as are required
24 according to RCW 43.72.800 in order to recommend the inclusion of
25 certain long-term care services in the minimum list of health services
26 by July 1999.

27 (24) Review rules prepared by the insurance commissioner, health
28 care authority, and department of health, and make recommendations to
29 them where appropriate to facilitate consistency with the policies of
30 this act.

31 To the extent that the exercise of any of the powers and duties
32 specified in this section may be inconsistent with the powers and
33 duties of other state agencies, offices, or commissions, the authority
34 of the commission shall supersede that of such other state agency,
35 office, or commission, except in matters of personal health data, where
36 the commission shall have primary data system policy-making authority
37 and the department of health shall have primary responsibility for the
38 maintenance and routine operation of personal health data systems.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.72 RCW
2 to read as follows:

3 (1) On or after January 1, 1996, no person or entity in this state
4 shall offer a benefits package of the minimum list of health services
5 or supplemental benefits without approval according to this section and
6 related rules adopted by the insurance commissioner.

7 (2) On and after January 1, 1996, no certified health plan may
8 offer a benefits package less than the minimum list of health services
9 to residents of this state.

10 (3) Any certified health plan that submits a letter to the
11 insurance commissioner stating their intent to offer the minimum list
12 of health services, and that is determined by the commissioner to
13 contain such documentation as may be required in rule, is deemed
14 provisionally approved to offer the minimum list of health services.
15 This provisional approval is valid for a length of time, to be
16 determined by the commissioner, of no more than two years.

17 (4) To receive full approval to offer the minimum list of health
18 services, prior to the expiration of the period of provisional approval
19 under subsection (3) of this section, the certified health plan must
20 demonstrate to the insurance commissioner that the certified health
21 plan complies with WAC 245-04-050, or the certified health plan will
22 lose their license as a health maintenance organization, health care
23 service contractor, or disability insurer.

24 (5) No certified health plan may offer the minimum list of health
25 services in this state as a health care service contractor, disability
26 insurer, or health maintenance organization for more than two years
27 under provisional approval without receiving full approval as a
28 certified health plan from the insurance commissioner.

29 (6) Anyone violating subsection (1) or (2) of this section is
30 liable for a fine not to exceed ten thousand dollars and imprisonment
31 not to exceed six months for each instance of such violation.

32 **Sec. 5.** RCW 43.72.100 and 1993 c 492 s 428 are each amended to
33 read as follows:

34 A certified health plan shall:

35 (1) Provide the benefits included in the ((uniform benefits
36 package)) minimum list of health services to enrolled Washington
37 residents for a ((prepaid per capita)) community-rated premium not to
38 exceed the maximum premium established by the commission and provide

1 such benefits through managed care in accordance with rules adopted by
2 the commission: PROVIDED, That certified health plans shall not be
3 required to sell the minimum list of health services at the "community
4 rate" to any individual who is at the time of proposed enrollment in
5 the certified health plan employed by a self-insured employer, or to
6 any employer who was self-insured after December 31, 1995: PROVIDED
7 FURTHER, That nothing herein shall permit a certified health plan to
8 sell the minimum list of services at less than the community rate;

9 (2) Offer supplemental benefits to enrolled Washington residents
10 for a (~~prepaid per capita~~) community-rated premium and provide such
11 benefits through managed care in accordance with rules adopted by the
12 commission;

13 (3) Except for a health maintenance organization licensed under
14 chapter 48.46 RCW, have available for purchase the minimum list of
15 health services in at least one plan that provides direct enrollee
16 access to any health provider eligible to receive payment under that
17 plan. This plan may encourage, but not require, its enrollees to use
18 the most cost-effective providers through variable enrollee
19 participation incentives. However, in no instances shall the patient
20 be liable for any balance billing by the provider beyond the normal
21 copayment, or coinsurance. Within this plan, the certified health plan
22 must permit every health care provider willing and able to meet the
23 terms and conditions of the plan to provide health services or care for
24 conditions included in the minimum list of health services to the
25 extent that:

26 (a) The provision of such health services or care is within the
27 health care providers' permitted scope of practice; and

28 (b) The providers agree to abide by the plan's standards related
29 to:

30 (i) Provision, utilization review, and cost-containment of health
31 services;

32 (ii) Management and administrative procedures; and

33 (iii) Provision of cost-effective and clinically efficacious health
34 services;

35 (4) Accept for enrollment any state resident within the plan's
36 service area and provide or assure the provision of all services within
37 the (~~uniform benefits package~~) minimum list of health services and
38 offer supplemental benefits regardless of age, sex, family structure,
39 ethnicity, race, health condition, geographic location, employment

1 status, socioeconomic status, other condition or situation, or the
2 provisions of RCW 49.60.174(2). The insurance commissioner may grant
3 a temporary exemption from this subsection, if, upon application by a
4 certified health plan, the commissioner finds that the clinical,
5 financial, or administrative capacity to serve existing enrollees will
6 be impaired if a certified health plan is required to continue
7 enrollment of additional eligible individuals;

8 ~~((+4))~~ (5) If the plan provides benefits through contracts with,
9 ownership of, or management of health care facilities and contracts
10 with or employs health care providers, demonstrate to the satisfaction
11 of the insurance commissioner in consultation with the department of
12 health and the commission that its facilities and personnel are
13 adequate to provide the benefits prescribed in the ~~((uniform benefits
14 package))~~ minimum list of health services and offer supplemental
15 benefits to enrolled Washington residents, and that it is financially
16 capable of providing such residents with, or has made adequate
17 contractual arrangements with health care providers and facilities to
18 provide enrollees with such benefits;

19 ~~((+5))~~ (6) Comply with portability of benefits requirements
20 prescribed by the commission;

21 ~~((+6))~~ (7) Comply with administrative rules prescribed by the
22 commission, department of health, the insurance commissioner, and other
23 state agencies governing certified health plans;

24 ~~((+7))~~ (8) Provide all enrollees with instruction and
25 informational materials to increase individual and family awareness of
26 injury and illness prevention; encourage assumption of personal
27 responsibility for protecting personal health; and stimulate discussion
28 about the use and limits of medical care in improving the health of
29 individuals and communities;

30 (9) Provide enrollees, and upon request, potential enrollees, with
31 written disclosure of coverage and benefits, including coverage
32 principles and any exclusions or restrictions on coverage, and make
33 available upon request information on evaluation and treatment policies
34 for specific conditions. Such information must be current, easily
35 understandable, and easily available prior to enrollment and upon
36 request thereafter;

37 (10) Conduct annual enrollee satisfaction surveys and provide the
38 survey results to their enrollees. The department of health shall set

1 the form of such surveys in rule based on the recommendations of the
2 health services commission in consultation with certified health plans;

3 ~~((+8+))~~ (11) Disclose to enrollees the charity care requirements
4 under chapter 70.170 RCW;

5 ~~((+9+))~~ (12) Include in all of its contracts with health care
6 providers and health care facilities a provision prohibiting such
7 providers and facilities from billing enrollees for any amounts in
8 excess of applicable enrollee point of service cost-sharing obligations
9 for services included in the ~~((uniform benefits package))~~ minimum list
10 of health services and supplemental benefits;

11 ~~((+10+))~~ (13) Include in all of its contracts issued for ~~((uniform~~
12 ~~benefits package))~~ minimum list of health services and supplemental
13 benefits coverage a subrogation provision that allows the certified
14 health plan to recover the costs of ~~((uniform benefits package))~~
15 minimum list of health services and supplemental benefits services
16 incurred to care for an enrollee injured by a negligent third party.
17 The costs recovered shall be limited to:

18 (a) If the certified health plan has not intervened in the action
19 by an injured enrollee against a negligent third party, then the amount
20 of costs the certified health plan can recover shall be limited to the
21 excess remaining after the enrollee has been fully compensated for his
22 or her loss minus a proportionate share of the enrollee's costs and
23 fees in bringing the action. The proportionate share shall be
24 determined by:

25 (i) The fees and costs approved by the court in which the action
26 was initiated; or

27 (ii) The written agreement between the attorney and client that
28 established fees and costs when fees and costs are not addressed by the
29 court.

30 When fees and costs have been approved by a court, after notice to
31 the certified health plan, the certified health plan shall have the
32 right to be heard on the matter of attorneys' fees and costs or its
33 proportionate share;

34 (b) If the certified health plan has intervened in the action by an
35 injured enrollee against a negligent third party, then the amount of
36 costs the certified health plan can recover shall be the excess
37 remaining after the enrollee has been fully compensated for his or her
38 loss or the amount of the plan's incurred costs, whichever is less;

1 (~~(11)~~) (14) Establish and maintain a grievance procedure approved
2 by the commissioner, to provide a reasonable and effective resolution
3 of complaints initiated by enrollees concerning any matter relating to
4 the provision of benefits under the (~~uniform benefits package~~)
5 minimum list of health services and supplemental benefits, access to
6 health care services, and quality of services. Each certified health
7 plan shall respond to complaints filed with the insurance commissioner
8 within fifteen working days. The insurance commissioner in
9 consultation with the commission shall establish standards for
10 resolution of grievances;

11 (~~(12)~~) (15) Comply with the provisions of chapter 48.30 RCW
12 prohibiting unfair and deceptive acts and practices to the extent such
13 provisions are not specifically modified or superseded by the
14 provisions of chapter 492, Laws of 1993 and be prohibited from offering
15 or supplying incentives that would have the effect of avoiding the
16 requirements of subsection (~~(3)~~) (4) of this section;

17 (~~(13)~~) (16) Have culturally sensitive health promotion programs
18 that include approaches that are specifically effective for persons of
19 color and accommodating to different cultural value systems, gender,
20 and age;

21 (~~(14)~~) (17) Permit every category of health care provider to
22 provide health services or care for conditions included in the
23 (~~uniform benefits package~~) minimum list of health services to the
24 extent that:

25 (a) The provision of such health services or care is within the
26 health care providers' permitted scope of practice; and

27 (b) The providers agree to abide by standards related to:

28 (i) Provision, utilization review, and cost containment of health
29 services;

30 (ii) Management and administrative procedures; and

31 (iii) Provision of cost-effective and clinically efficacious health
32 services;

33 (~~(15)~~) (18) Establish the geographic boundaries in which they
34 will obligate themselves to deliver the services required under the
35 (~~uniform benefits package~~) minimum list of health services and
36 include such information in their application for certification, but
37 the commissioner shall review such boundaries and may disapprove, in
38 conformance with guidelines adopted by the commission, those that have

1 been clearly drawn to be exclusionary within a health care catchment
2 area;

3 ~~((16))~~ (19) Annually report the names and addresses of all
4 officers, directors, or trustees of the certified health plan during
5 the preceding year, and the amount of wages, expense reimbursements, or
6 other payments to such individuals;

7 ~~((17))~~ (20) Annually report the number of residents enrolled and
8 terminated during the previous year. Additional information regarding
9 the enrollment and termination pattern for a certified health plan may
10 be required by the commissioner to determine compliance with the open
11 enrollment and free access requirements of chapter 492, Laws of 1993;
12 and

13 ~~((18))~~ (21) Disclose any financial interests held by officers and
14 directors in any facilities associated with or operated by the
15 certified health plan.

16 NEW SECTION. Sec. 6. A new section is added to chapter 43.72 RCW
17 to read as follows:

18 (1) On July 1, 1995, the commission shall file as proposed rules
19 the draft and adopted rules in WAC 245-04-010 through 245-04-240, which
20 establish certified health plan standards as they were submitted to the
21 legislature by the health services commission on January 10, 1995. The
22 commission may modify these rules according to the terms of chapter
23 34.05 RCW, the administrative procedure act, but must adopt them in
24 final form no later than October 1, 1995.

25 (2) On July 1, 1995, the commission shall file as proposed rules
26 the draft rules in WAC 245-04-300 through 245-04-350, which establish
27 certified health plan quality standards as they were submitted to the
28 legislature by the health services commission on January 10, 1995. The
29 commission may modify these rules according to chapter 34.05 RCW, the
30 administrative procedure act, but must adopt the rules in final form no
31 later than October 1, 1995.

32 (3) The legislature does not approve, as of the effective date of
33 this act, the health services commission's proposed uniform benefits
34 package, nor does it approve the proposed medical risk adjustment
35 mechanism under RCW 43.72.040(7) and indefinitely suspends the
36 application of medical risk adjustment mechanisms, and the application
37 of the uniform benefits package description contained in RCW 43.72.130.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.47 RCW
2 to read as follows:

3 The administrator shall expand the schedule of covered basic health
4 services that were available to an enrollee of the basic health plan as
5 of July 1, 1994, to include services of licensed midwives, limited
6 chiropractic care, limited chemical dependency services, limited mental
7 health services, and limited medical rehabilitation. Such expansion
8 shall not increase the actuarially determined average member per month
9 cost, excluding adjustments for inflation and utilization by more than
10 five percent. After the administrator has made the modifications to
11 the basic health plan that are necessary to include these services, the
12 basic health plan may not be further modified in a manner that will
13 increase the average per member per month cost except by an act of law.

14 NEW SECTION. **Sec. 8.** A new section is added to chapter 41.05 RCW
15 to read as follows:

16 The authority shall study and report to the legislature on the
17 feasibility of including long-term care services in a medicare
18 supplemental insurance policy offered according to RCW 41.05.197.

19 NEW SECTION. **Sec. 9.** (1) This chapter shall be known as the
20 medical care savings account act.

21 (2) Medical care savings accounts are authorized in Washington
22 state as options to employers and residents.

23 **Sec. 10.** RCW 43.72.190 and 1993 c 492 s 455 are each amended to
24 read as follows:

25 (1) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
26 1995 (this act) shall preclude insurers, health care service
27 contractors, health maintenance organizations, or certified health
28 plans from insuring, providing, or contracting for benefits not
29 included in the ((uniform benefits package or in supplemental
30 benefits)) minimum list of health services.

31 (2) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
32 1995 (this act) shall restrict the right of an employer to offer, an
33 employee representative to negotiate for, or an individual or employer
34 to purchase ((supplemental or additional)) any benefits not included in
35 the ((uniform benefits package)) minimum list of health services.

1 (3) (~~Nothing in chapter 492, Laws of 1993 shall restrict the right~~
2 ~~of an employer to offer or an employee representative to negotiate for~~
3 ~~payment of up to one hundred percent of the premium of the lowest~~
4 ~~priced uniform benefits package available in the geographic area where~~
5 ~~the employer is located.~~

6 (4)) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws
7 of 1995 (this act) shall be construed to affect the collective
8 bargaining rights of employee organizations to the extent that federal
9 law specifically restricts the ability of states to limit collective
10 bargaining rights of employee organizations.

11 (4) After July 1, 1999, no property or casualty insurance policy
12 issued in this state may provide first-party coverage for health
13 services to the extent that such services are provided under a uniform
14 benefits package covering the resident to whom such property or
15 casualty insurance policy is issued.

16 NEW SECTION. Sec. 11. A new section is added to chapter 43.70 RCW
17 to read as follows:

18 (1) The identity of a whistleblower who complains, in good faith,
19 to the department of health about the improper quality of care by a
20 health care provider, by a certified health plan, or in a health care
21 facility, as defined in RCW 43.72.010, shall remain confidential. The
22 provisions of RCW 4.24.500 through 4.24.520, providing certain
23 protections to persons who communicate to government agencies, shall
24 apply to complaints filed under this section. The identity of the
25 whistleblower shall remain confidential unless the department
26 determines that the complaint was not made in good faith. An employee
27 who is a whistleblower, as defined in this section, and who as a result
28 of being a whistleblower has been subjected to workplace reprisal or
29 retaliatory action has the remedies provided under chapter 49.60 RCW.

30 (2)(a) "Improper quality of care" means any practice, procedure,
31 action, or failure to act that violates any state law or rule of the
32 applicable state health licensing authority under Title 18 RCW, or
33 chapters 70.41, 70.96A, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, or
34 certified health plan rules under the authority of this act and
35 enforced by the insurance commissioner or the department of health.
36 Each health disciplinary authority as defined in RCW 18.130.040 shall,
37 with consultation and interdisciplinary coordination provided by the
38 state department of health, adopt rules defining accepted standards of

1 practice for their profession that shall further define improper
2 quality of care. Improper quality of care shall not include personnel
3 actions related to employee performance or taken according to
4 established terms and conditions of employment.

5 (b) "Reprisal or retaliatory action" means but is not limited to:
6 Denial of adequate staff to perform duties; frequent staff changes;
7 frequent and undesirable office changes; refusal to assign meaningful
8 work; unwarranted and unsubstantiated report of misconduct pursuant to
9 Title 18 RCW; letters of reprimand or unsatisfactory performance
10 evaluations; demotion; reduction in pay; denial of promotion;
11 suspension; dismissal; denial of employment; and a supervisor or
12 superior encouraging coworkers to behave in a hostile manner toward the
13 whistleblower.

14 (c) "Whistleblower" means a consumer, employee, or health care
15 professional who in good faith reports alleged quality of care concerns
16 to the department of health.

17 (3) Nothing in this section prohibits a health care facility from
18 making any decision exercising its authority to terminate, suspend, or
19 discipline an employee who engages in workplace reprisal or retaliatory
20 action against a whistleblower.

21 (4) The department shall adopt rules to implement this section,
22 including procedures for filing, investigation, and resolution of
23 whistleblower complaints that are integrated with complaint procedures
24 under Title 18 RCW for health professionals and chapter 43.72 RCW for
25 certified health plans.

26 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.70 RCW
27 to read as follows:

28 All health care facilities, certified health plans, and providers
29 must develop and disclose a staffing plan to include professional and
30 nonprofessional staff, including direct registered nurse to patient
31 ratios for each treatment setting and shift. This section does not
32 require a certified health plan, health care facility, or health
33 provider to adhere to any particular standard that may not be otherwise
34 provided by law. The department shall set in rule the forms, frequency
35 of disclosure, and posting requirements for such information.

36 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.41 RCW
37 to read as follows:

1 The department of health in consultation with the nursing quality
2 assurance commission under chapter 18.79 RCW may, within funds
3 appropriated specifically for the purpose, study staffing plans for
4 hospitals, including the relationship between staffing ratios and
5 patient care needs. The department shall develop a report with any
6 recommendations it chooses to make to the legislature regarding
7 specific changes in state law regarding these matters.

8 **Sec. 14.** RCW 43.72.070 and 1993 c 492 s 409 are each amended to
9 read as follows:

10 To ensure the highest quality health services at the lowest total
11 cost, the commission shall establish a total quality management system
12 of continuous quality improvement. Such endeavor shall be based upon
13 the recognized quality science for continuous quality improvement. The
14 commission shall impanel a committee composed of persons from the
15 private sector and related sciences who have broad knowledge and
16 successful experiences in continuous quality improvement and total
17 quality management applications. It shall be the responsibility of the
18 committee to develop quality standards for ((a Washington state health
19 services supplier certification process)) certified health plans and
20 recommend such standards, and the process for assuring that plans meet
21 such standards, to the commission for review and adoption. Once
22 adopted, the commission shall establish a schedule, with full
23 compliance no later than ((July 1, 1996)) four years from the date of
24 the plan's first provisional approval by the office of the insurance
25 commissioner to provide the minimum list of health services, whereby
26 all health ((service providers and health service facilities)) plans
27 shall ((be certified prior to providing uniform benefits package
28 services)) meet the requirements of the commission's quality assurance
29 and improvement rules and be accredited by an approved quality review
30 organization.

31 **Sec. 15.** RCW 48.30.010 and 1985 c 264 s 13 are each amended to
32 read as follows:

33 (1) No person engaged in the business of insurance shall engage in
34 unfair methods of competition or in unfair or deceptive acts or
35 practices in the conduct of such business as such methods, acts, or
36 practices are defined pursuant to subsection (2) of this section.

1 (2) In addition to such unfair methods and unfair or deceptive acts
2 or practices as are expressly defined and prohibited by this code, the
3 commissioner may from time to time by regulation promulgated pursuant
4 to chapter 34.05 RCW, define other methods of competition and other
5 acts and practices in the conduct of such business reasonably found by
6 the commissioner to be unfair or deceptive, which shall include any act
7 or practice that has the effect of changing access to appropriate and
8 effective health services in a manner proscribed by the laws and rules
9 of the state of Washington.

10 (3) No such regulation shall be made effective prior to the
11 expiration of thirty days after the date of the order by which it is
12 promulgated.

13 (4) If the commissioner has cause to believe that any person is
14 violating any such regulation, the commissioner may order such person
15 to cease and desist therefrom. The commissioner shall deliver such
16 order to such person direct or mail it to the person by registered mail
17 with return receipt requested. If the person violates the order after
18 expiration of ten days after the cease and desist order has been
19 received by him or her, he or she may be fined by the commissioner a
20 sum not to exceed two hundred and fifty dollars for each violation
21 committed thereafter.

22 (5) If any such regulation is violated, the commissioner may take
23 such other or additional action as is permitted under the insurance
24 code for violation of a regulation.

25 **Sec. 16.** RCW 48.44.490 and 1993 c 492 s 288 are each amended to
26 read as follows:

27 (1) With respect to all health care service contracts issued or
28 renewed on and after July 1, 1994, except limited health care service
29 contracts as defined in RCW 48.44.035:

30 (a) Contracts shall guarantee continuity of coverage. Such
31 provision, which shall be included in every contract, shall provide
32 that:

33 (i) The contract may be canceled or nonrenewed without the prior
34 written approval of the commissioner only for nonpayment of premiums,
35 for violation of published policies of the contractor that have been
36 approved by the commissioner, for persons who are entitled to become
37 eligible for medicare benefits and fail to subscribe to a medicare
38 supplement plan offered by the contractor, for failure of such

1 subscriber to pay any deductible or copayment amount owed to the
2 contractor and not the provider of health care services, for fraud, or
3 for a material breach of the contract; and

4 (ii) The contract may be canceled or nonrenewed because of a change
5 in the physical or mental condition or health of a covered person only
6 with the prior written approval of the commissioner. Such approval
7 shall be granted only when the contractor has discharged its obligation
8 to continue coverage for such person by obtaining coverage with another
9 insurer, health care service contractor, or health maintenance
10 organization, which coverage is comparable in terms of premiums and
11 benefits as defined by rule of the commissioner.

12 (b) It is an unfair practice for a contractor to modify the
13 coverage provided or rates applying to an in-force contract and to fail
14 to make such modification in all such issued and outstanding contracts.

15 (c) Subject to rules adopted by the commissioner, it is an unfair
16 practice for a health care service contractor to:

17 (i) Cease the sale of a contract form unless it has received prior
18 written authorization from the commissioner and has offered all
19 subscribers covered under such discontinued contract the opportunity to
20 purchase comparable coverage without health screening; or

21 (ii) Engage in a practice that subjects subscribers to rate
22 increases on discontinued contract forms unless such subscribers are
23 offered the opportunity to purchase comparable coverage without health
24 screening.

25 (2) The health care service contractor may limit an offer of
26 comparable coverage without health screening to a period not less than
27 thirty days from the date the offer is first made.

28 (3) In addition to such unfair methods and unfair or deceptive acts
29 or practices as are expressly defined and prohibited by this code, the
30 commissioner may from time to time by rule adopted pursuant to chapter
31 34.05 RCW, define other methods of competition and other acts and
32 practices in the conduct of such business reasonably found by the
33 commissioner to be unfair or deceptive, which shall include any act or
34 practice that has the effect of changing access to appropriate and
35 effective health services in a manner proscribed by the laws and rules
36 of the state of Washington.

37 **Sec. 17.** RCW 48.46.560 and 1993 c 492 s 289 are each amended to
38 read as follows:

1 (1) With respect to all health maintenance agreements issued or
2 renewed on and after July 1, 1994, and in addition to the restrictions
3 and limitations contained in RCW 48.46.060(4):

4 (a) Agreements shall guarantee continuity of coverage. Such
5 provision, which shall be included in every agreement, shall provide
6 that the agreement may be canceled or nonrenewed because of a change in
7 the physical or mental condition or health of a covered person only
8 with the prior written approval of the commissioner. Such approval
9 shall be granted only when the organization has discharged its
10 obligation to continue coverage for such person by obtaining coverage
11 with another insurer, health care service contractor, or health
12 maintenance organization, which coverage is comparable in terms of
13 premiums and benefits as defined by rule of the commissioner.

14 (b) It is an unfair practice for an organization to modify the
15 coverage provided or rates applying to an in-force agreement and to
16 fail to make such modification in all such issued and outstanding
17 agreements.

18 (c) Subject to rules adopted by the commissioner, it is an unfair
19 practice for a health maintenance organization to:

20 (i) Cease the sale of an agreement form unless it has received
21 prior written authorization from the commissioner and has offered all
22 enrollees covered under such discontinued agreement the opportunity to
23 purchase comparable coverage without health screening; or

24 (ii) Engage in a practice that subjects enrollees to rate increases
25 on discontinued agreement forms unless such enrollees are offered the
26 opportunity to purchase comparable coverage without health screening.

27 (2) The health maintenance organization may limit an offer of
28 comparable coverage without health screening to a period not less than
29 thirty days from the date the offer is first made.

30 (3) In addition to such unfair methods and unfair or deceptive acts
31 or practices as are expressly defined and prohibited by this code, the
32 commissioner may from time to time by rule adopted pursuant to chapter
33 34.05 RCW, define other methods of competition and other acts and
34 practices in the conduct of such business reasonably found by the
35 commissioner to be unfair or deceptive, which shall include any act or
36 practice that has the effect of changing access to appropriate and
37 effective health services in a manner proscribed by the laws and rules
38 of the state of Washington.

1 NEW SECTION. **Sec. 18.** A new section is added to Title 48 RCW to
2 read as follows:

3 The legislature recognizes that every individual possesses a
4 fundamental right to exercise their religious beliefs and conscience.
5 The legislature further recognizes that in developing public policy,
6 conflicting religious and moral beliefs must be respected. Therefore,
7 while recognizing the right of conscientious objection to participating
8 in specific health services, the state shall also recognize the right
9 of individuals enrolled with a certified health plan to receive the
10 full range of services covered under the minimum list of health
11 services.

12 NEW SECTION. **Sec. 19.** A new section is added to Title 48 RCW to
13 read as follows:

14 (1) No individual health care provider, health care facility, or
15 religiously sponsored certified health plan may be required by law or
16 contract in any circumstances to directly participate in the provision
17 of or payment for a specific service in this minimum list of health
18 services if they object to so doing for reason of conscience or
19 religion. No person may be discriminated against in employment or
20 professional privileges because of such objection.

21 (2) The provisions of this section are not intended to result in an
22 enrollee being denied timely access to any service included in the
23 minimum list of health services. Each certified health plan shall:

24 (a) Provide written notice to enrollees, upon enrollment with the
25 plan and upon enrollee request thereafter, listing, by provider,
26 services that any provider refuses to perform for reason of conscience
27 or religion;

28 (b) Develop written information describing how an enrollee may
29 directly access, in an expeditious manner, services that the provider
30 refuses to perform; and

31 (c) Ensure that enrollees refused services under this section have
32 prompt access to the information developed pursuant to (b) of this
33 subsection.

34 (3) The health services commission shall adopt rules to implement
35 this section and establish a mechanism to ensure enrollees timely
36 access to the minimum list of health services and to assure prompt
37 payment to service providers.

1 NEW SECTION. **Sec. 20.** A new section is added to Title 48 RCW to
2 read as follows:

3 (1) No individual or organization with a religious or moral tenet
4 opposed to a specific service on the minimum list of health services
5 may be required to purchase coverage for that service or services if
6 the individual or organization objects to doing so for reason of
7 conscience or religion.

8 (2) The provisions of this section shall not result in an enrollee
9 being denied coverage of, and timely access to, any service or services
10 excluded from their benefits package as a result of their employer's or
11 another individual's exercise of the conscience clause outlined in
12 subsection (1) of this section.

13 (3) The health services commission shall define the process through
14 which certified health plans may offer the minimum list of health
15 services to individuals and organizations identified in subsections (1)
16 and (2) of this section in accordance to the provisions of section
17 19(3) of this act.

18 **Sec. 21.** RCW 70.47.--- and 1995 c . . . (ESSB 5386) s 3 are each
19 amended to read as follows:

20 Insurance brokers and agents who hold the proper license pursuant
21 to chapter 43.17 RCW shall be entitled to sell the basic health plan
22 and shall receive from the health care authority a three percent
23 commission for each individual sale of the basic health plan to anyone
24 not previously signed up and a one percent commission for each group
25 sale of the basic health plan. No commission shall be provided upon a
26 renewal. Commissions shall be determined based on the estimated annual
27 cost of the basic health plan. The health care authority shall use
28 moneys in the ((~~basic health plan trust~~)) health services account for
29 this purpose.

30 NEW SECTION. **Sec. 22.** The health care authority, the office of
31 financial management, the department of social and health services, and
32 the state treasurer shall together monitor the enrollee level in the
33 basic health plan and the medicaid caseload of children funded from the
34 health services account. The agencies shall adjust the funding levels
35 by transfers of funds between the basic health plan and medicaid and
36 adjust the funding levels by transfers of health services account
37 appropriations between the health care authority and the medical

1 assistance administration of the department of social and health
2 services to maximize combined enrollment.

3 NEW SECTION. **Sec. 23.** A new section is added to chapter 43.19 RCW
4 to read as follows:

5 Any person, firm, or organization that makes any bid to provide any
6 goods or services to any state agency shall be granted a preference
7 over other bidders if at the time the bid is submitted the vendor
8 provides the minimum list of health services as defined in chapter
9 43.72 RCW to ninety-five percent of their employees and pays at least
10 fifty percent of the related premium. The preference provided under
11 this section shall be equal to ten percent of the total points awarded
12 in the bid process. For purposes of this section, employees of under
13 three months are not included in the computation.

14 NEW SECTION. **Sec. 24.** A new section is added to Title 51 RCW to
15 read as follows:

16 The department of labor and industries and the health care
17 authority shall develop an easy employer payment method for the basic
18 health plan under which an employer can make his or her basic health
19 plan payment on the same forms and in the same check he or she uses to
20 make workers' compensation payments. The department of labor and
21 industries and the health care authority shall report to the fiscal
22 committees of the legislature no later than March 1, 1996, with
23 recommendations on the most efficient manner in which to implement the
24 easy employer payment method. These recommendations shall be based on
25 considerations of both potential costs to be incurred by the department
26 of labor and industries and the health care authority as well as the
27 potential benefits to be received by employers.

28 **Sec. 25.** RCW 18.130.320 and 1993 c 492 s 408 are each amended to
29 read as follows:

30 The Washington health services commission established by RCW
31 43.72.020, in consultation with the secretary of health, and the health
32 care disciplinary authorities under RCW 18.130.040(2)(b), shall
33 establish standards and monetary penalties in rule prohibiting provider
34 investments and referrals that present a conflict of interest resulting
35 from inappropriate financial gain for the provider or his or her
36 immediate family. These standards are not intended to inhibit the

1 efficient operation of managed health care systems or certified health
2 plans. (~~The commission shall report to the health policy committees
3 of the senate and house of representatives by December 1, 1994, on the
4 development of the standards and any recommended statutory changes
5 necessary to implement the standards.~~)

6 NEW SECTION. **Sec. 26.** The department of social and health
7 services, in consultation with the health care authority, the office of
8 financial management, and other appropriate state agencies, shall seek
9 necessary federal waivers and state law changes to the medical
10 assistance program of the department to achieve greater coordination in
11 financing, purchasing, and delivering health services to low-income
12 residents of Washington state in a cost-effective manner, and to expand
13 access to care for these low-income residents. Such waivers shall
14 include any waiver needed to require that point-of-service cost-
15 sharing, based on recipient household income, be applied to medical
16 assistance recipients. In negotiating the waiver, consideration shall
17 be given to the degree to which benefits in addition to the minimum
18 list of services should be offered to medical assistance recipients.

19 NEW SECTION. **Sec. 27.** The following acts or parts of acts are
20 each repealed:

- 21 (1) RCW 43.72.200 and 1993 c 492 s 456;
- 22 (2) RCW 43.72.220 and 1993 c 494 s 3 & 1993 c 492 s 464;
- 23 (3) RCW 43.72.240 and 1993 c 494 s 4 & 1993 c 492 s 466;
- 24 (4) RCW 43.72.810 and 1993 c 492 s 474;
- 25 (5) RCW 43.72.210 and 1993 c 492 s 463;
- 26 (6) RCW 43.72.120 and 1993 c 492 s 430;
- 27 (7) RCW 43.72.090 and 1995 c 2 s 1 & 1993 c 492 s 427;
- 28 (8) RCW 48.43.010 and 1993 c 492 s 432;
- 29 (9) RCW 48.43.020 and 1993 c 492 s 433;
- 30 (10) RCW 48.43.030 and 1993 c 492 s 434;
- 31 (11) RCW 48.43.040 and 1993 c 492 s 435;
- 32 (12) RCW 48.43.050 and 1993 c 492 s 436;
- 33 (13) RCW 48.43.060 and 1993 c 492 s 437;
- 34 (14) RCW 48.43.070 and 1993 c 492 s 438;
- 35 (15) RCW 48.43.080 and 1993 c 492 s 439;
- 36 (16) RCW 48.43.090 and 1993 c 492 s 440;
- 37 (17) RCW 48.43.100 and 1993 c 492 s 441;

- 1 (18) RCW 48.43.110 and 1993 c 492 s 442;
2 (19) RCW 48.43.120 and 1993 c 492 s 443;
3 (20) RCW 48.43.130 and 1993 c 492 s 444;
4 (21) RCW 48.43.150 and 1993 c 492 s 446;
5 (22) RCW 43.72.060 and 1994 c 4 s 2 & 1993 c 492 s 404;
6 (23) RCW 43.72.140 and 1993 c 492 s 450; and
7 (24) RCW 43.72.150 and 1993 c 492 s 451.

8 NEW SECTION. **Sec. 28.** Section 9 of this act shall constitute a
9 new chapter in Title 48 RCW.

10 NEW SECTION. **Sec. 29.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and shall take
13 effect immediately.

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