
HOUSE BILL 1820

State of Washington

55th Legislature

1997 Regular Session

By Representatives Dyer, Scott, Skinner, Sheldon, Sherstad, Zellinsky and Backlund

Read first time 02/10/97. Referred to Committee on Health Care.

1 AN ACT Relating to health care liability reform; amending RCW
2 5.60.060, 70.02.050, 4.16.190, 4.16.350, 4.24.005, and 7.70.070; adding
3 new sections to chapter 7.70 RCW; adding a new section to chapter 4.16
4 RCW; adding a new chapter to Title 4 RCW; and creating new sections.

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

6 **PART 1--CERTIFICATE OR MERIT**

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 7.70 RCW
8 to read as follows:

9 (1) The claimant's attorney shall file the certificate specified in
10 subsection (2) of this section within ninety days of filing or service,
11 whichever occurs later, of any action for damages arising out of
12 injuries occurring as a result of health care.

13 (2) The certificate issued by the claimant's attorney shall
14 declare:

15 (a) That the attorney has reviewed the facts of the case;

16 (b) That the attorney has consulted with at least one qualified
17 expert who the attorney reasonably believes is knowledgeable in the
18 relevant issues involved in the particular action and who:

1 (i) Holds a license, certificate, or registration issued by this
2 state or another state in the same profession as that of the defendant
3 and who practices in the same specialty or subspecialty as the
4 defendant; or

5 (ii) Has expertise in those areas requiring expert testimony in an
6 action against a health care facility;

7 (c) The identity of the expert and the expert's license,
8 certification, or registration;

9 (d) That the expert is willing and available to testify to
10 admissible facts or opinions; and

11 (e) That the attorney has concluded on the basis of such review and
12 consultation that there is reasonable and meritorious cause for the
13 filing of such action.

14 (3) Where a certificate is required under this section, and where
15 there are multiple defendants, the certificate or certificates must
16 state the attorney's conclusion that on the basis of review and expert
17 consultation, there is reasonable and meritorious cause for the filing
18 of such action as to each defendant.

19 (4) The provisions of this section are not applicable to a pro se
20 plaintiff until such a time as an attorney appears on the plaintiff's
21 behalf.

22 (5) A violation of this section is grounds for either dismissal of
23 the case or sanctions against the attorney, or both, as the court deems
24 appropriate.

25 NEW SECTION. **Sec. 2.** Section 1 of this act applies to all actions
26 for damages arising out of professional negligence filed on or after
27 the effective date of this section.

28 **PART 2--EQUAL ACCESS TO MEDICAL WITNESSES**

29 **Sec. 3.** RCW 5.60.060 and 1996 c 156 s 1 are each amended to read
30 as follows:

31 (1) A husband shall not be examined for or against his wife,
32 without the consent of the wife, nor a wife for or against her husband
33 without the consent of the husband; nor can either during marriage or
34 afterward, be without the consent of the other, examined as to any
35 communication made by one to the other during marriage. But this
36 exception shall not apply to a civil action or proceeding by one

1 against the other, nor to a criminal action or proceeding for a crime
2 committed by one against the other, nor to a criminal action or
3 proceeding against a spouse if the marriage occurred subsequent to the
4 filing of formal charges against the defendant, nor to a criminal
5 action or proceeding for a crime committed by ((said)) the husband or
6 wife against any child of whom ((said)) the husband or wife is the
7 parent or guardian, nor to a proceeding under chapter 70.96A or 71.05
8 RCW(~~(: PROVIDED, That)~~). However, the spouse of a person sought to be
9 detained under chapter 70.96A or 71.05 RCW may not be compelled to
10 testify and shall be so informed by the court prior to being called as
11 a witness.

12 (2) An attorney or counselor shall not, without the consent of his
13 or her client, be examined as to any communication made by the client
14 to him or her, or his or her advice given thereon in the course of
15 professional employment.

16 (3) A member of the clergy or a priest shall not, without the
17 consent of a person making the confession, be examined as to any
18 confession made to him or her in his or her professional character, in
19 the course of discipline enjoined by the church to which he or she
20 belongs.

21 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.250,
22 a physician or surgeon or osteopathic physician or surgeon shall not,
23 without the consent of his or her patient, be examined in a civil
24 action as to any information acquired in attending such patient, which
25 was necessary to enable him or her to prescribe or act for the patient,
26 except as follows:

27 (a) In any judicial proceedings regarding a child's injury,
28 neglect, or sexual abuse or the cause thereof; and

29 (b) Ninety days after ((filing an action)) making a demand for
30 compensation for personal injuries or wrongful death, the claimant
31 shall be deemed to waive the physician-patient privilege. Waiver of
32 the physician-patient privilege for any one physician or condition
33 constitutes a waiver of the privilege as to all physicians or
34 conditions, subject to such limitations as a court may impose pursuant
35 to court rules. Where the privilege has been waived under this
36 section, ex parte interviews with such physicians may be conducted in
37 the same manner as with any other witness.

1 (5) A public officer shall not be examined as a witness as to
2 communications made to him or her in official confidence, when the
3 public interest would suffer by the disclosure.

4 (6)(a) A peer support group counselor shall not, without consent of
5 the law enforcement officer making the communication, be compelled to
6 testify about any communication made to the counselor by the officer
7 while receiving counseling. The counselor must be designated as such
8 by the sheriff, police chief, or chief of the Washington state patrol,
9 prior to the incident that results in counseling. The privilege only
10 applies when the communication was made to the counselor while acting
11 in his or her capacity as a peer support group counselor. The
12 privilege does not apply if the counselor was an initial responding
13 officer, a witness, or a party to the incident which prompted the
14 delivery of peer support group counseling services to the law
15 enforcement officer.

16 (b) For purposes of this section, "peer support group counselor"
17 means a:

18 (i) Law enforcement officer, or civilian employee of a law
19 enforcement agency, who has received training to provide emotional and
20 moral support and counseling to an officer who needs those services as
21 a result of an incident in which the officer was involved while acting
22 in his or her official capacity; or

23 (ii) Nonemployee counselor who has been designated by the sheriff,
24 police chief, or chief of the Washington state patrol to provide
25 emotional and moral support and counseling to an officer who needs
26 those services as a result of an incident in which the officer was
27 involved while acting in his or her official capacity.

28 (7) A sexual assault advocate may not, without the consent of the
29 victim, be examined as to any communication made by the victim to the
30 sexual assault advocate.

31 (a) For purposes of this section, "sexual assault advocate" means
32 the employee or volunteer from a rape crisis center, victim assistance
33 unit, program, or association, that provides information, medical or
34 legal advocacy, counseling, or support to victims of sexual assault,
35 who is designated by the victim to accompany the victim to the hospital
36 or other health care facility and to proceedings concerning the alleged
37 assault, including police and prosecution interviews and court
38 proceedings.

1 (b) A sexual assault advocate may disclose a confidential
2 communication without the consent of the victim if failure to disclose
3 is likely to result in a clear, imminent risk of serious physical
4 injury or death of the victim or another person. Any sexual assault
5 advocate participating in good faith in the disclosing of records and
6 communications under this section shall have immunity from any
7 liability, civil, criminal, or otherwise, that might result from the
8 action. In any proceeding, civil or criminal, arising out of a
9 disclosure under this section, the good faith of the sexual assault
10 advocate who disclosed the confidential communication shall be
11 presumed.

12 **Sec. 4.** RCW 70.02.050 and 1993 c 448 s 4 are each amended to read
13 as follows:

14 (1) A health care provider may disclose health care information
15 about a patient without the patient's authorization to the extent a
16 recipient needs to know the information, if the disclosure is:

17 (a) To a person who the provider reasonably believes is providing
18 health care to the patient;

19 (b) To any other person who requires health care information for
20 health care education, or to provide planning, quality assurance, peer
21 review, or administrative, legal, financial, or actuarial services to
22 the health care provider; or for assisting the health care provider in
23 the delivery of health care and the health care provider reasonably
24 believes that the person:

25 (i) Will not use or disclose the health care information for any
26 other purpose; and

27 (ii) Will take appropriate steps to protect the health care
28 information;

29 (c) To any other health care provider reasonably believed to have
30 previously provided health care to the patient, to the extent necessary
31 to provide health care to the patient, unless the patient has
32 instructed the health care provider in writing not to make the
33 disclosure;

34 (d) To any person if the health care provider reasonably believes
35 that disclosure will avoid or minimize an imminent danger to the health
36 or safety of the patient or any other individual, however there is no
37 obligation under this chapter on the part of the provider to so
38 disclose;

1 (e) Oral, and made to immediate family members of the patient, or
2 any other individual with whom the patient is known to have a close
3 personal relationship, if made in accordance with good medical or other
4 professional practice, unless the patient has instructed the health
5 care provider in writing not to make the disclosure;

6 (f) To a health care provider who is the successor in interest to
7 the health care provider maintaining the health care information;

8 (g) For use in a research project that an institutional review
9 board has determined:

10 (i) Is of sufficient importance to outweigh the intrusion into the
11 privacy of the patient that would result from the disclosure;

12 (ii) Is impracticable without the use or disclosure of the health
13 care information in individually identifiable form;

14 (iii) Contains reasonable safeguards to protect the information
15 from redisclosure;

16 (iv) Contains reasonable safeguards to protect against identifying,
17 directly or indirectly, any patient in any report of the research
18 project; and

19 (v) Contains procedures to remove or destroy at the earliest
20 opportunity, consistent with the purposes of the project, information
21 that would enable the patient to be identified, unless an institutional
22 review board authorizes retention of identifying information for
23 purposes of another research project;

24 (h) To a person who obtains information for purposes of an audit,
25 if that person agrees in writing to:

26 (i) Remove or destroy, at the earliest opportunity consistent with
27 the purpose of the audit, information that would enable the patient to
28 be identified; and

29 (ii) Not to disclose the information further, except to accomplish
30 the audit or report unlawful or improper conduct involving fraud in
31 payment for health care by a health care provider or patient, or other
32 unlawful conduct by the health care provider;

33 (i) To an official of a penal or other custodial institution in
34 which the patient is detained;

35 (j) To provide directory information, unless the patient has
36 instructed the health care provider not to make the disclosure;

37 (k) In the case of a hospital or health care provider to provide,
38 in cases reported by fire, police, sheriff, or other public authority,
39 name, residence, sex, age, occupation, condition, diagnosis, or extent

1 and location of injuries as determined by a physician, and whether the
2 patient was conscious when admitted; or

3 (1) Made after a deemed waiver of the physician-patient privilege
4 under RCW 5.60.060(4)(b).

5 (2) A health care provider shall disclose health care information
6 about a patient without the patient's authorization if the disclosure
7 is:

8 (a) To federal, state, or local public health authorities, to the
9 extent the health care provider is required by law to report health
10 care information; when needed to determine compliance with state or
11 federal licensure, certification or registration rules or laws; or when
12 needed to protect the public health;

13 (b) To federal, state, or local law enforcement authorities to the
14 extent the health care provider is required by law;

15 (c) Pursuant to compulsory process in accordance with RCW
16 70.02.060.

17 (3) All state or local agencies obtaining patient health care
18 information pursuant to this section shall adopt rules establishing
19 their record acquisition, retention, and security policies that are
20 consistent with this chapter.

21 NEW SECTION. **Sec. 5.** RCW 5.60.060 and 70.02.050 do not apply to
22 claims, hearings, appeals, or any other proceedings under Title 51 RCW.

23 **PART 3--LIMITATION OF ACTIONS**

24 **Sec. 6.** RCW 4.16.190 and 1993 c 232 s 1 are each amended to read
25 as follows:

26 If a person entitled to bring an action mentioned in this chapter,
27 except for a penalty or forfeiture, or against a sheriff or other
28 officer, for an escape, be at the time the cause of action accrued
29 either under the age of eighteen years, or incompetent or disabled to
30 such a degree that he or she cannot understand the nature of the
31 proceedings, such incompetency or disability as determined according to
32 chapter 11.88 RCW, or imprisoned on a criminal charge prior to
33 sentencing, the time of such disability shall not be a part of the time
34 limited for the commencement of action.

1 This section does not apply to any civil action for damages for
2 injury occurring as a result of health care that is provided after June
3 25, 1976.

4 NEW SECTION. Sec. 7. A new section is added to chapter 4.16 RCW
5 to read as follows:

6 Any civil action for damages for injury occurring as a result of
7 health care provided after June 25, 1976, and before the effective date
8 of this act that has not accrued before the effective date of this act
9 and that was previously tolled by RCW 4.16.190 accrues on the effective
10 date of this act.

11 **Sec. 8.** RCW 4.16.350 and 1988 c 144 s 2 are each amended to read
12 as follows:

13 Any civil action for damages for injury occurring as a result of
14 health care which is provided after June 25, 1976 against:

15 (1) A person licensed by this state to provide health care or
16 related services, including, but not limited to, a physician,
17 osteopathic physician, dentist, nurse, optometrist, (~~podiatrist~~)
18 podiatric physician and surgeon, chiropractor, physical therapist,
19 psychologist, pharmacist, optician, physician's assistant, osteopathic
20 physician's assistant, nurse practitioner, or physician's trained
21 mobile intensive care paramedic, including, in the event such person is
22 deceased, his estate or personal representative;

23 (2) An employee or agent of a person described in subsection (1) of
24 this section, acting in the course and scope of his employment,
25 including, in the event such employee or agent is deceased, his estate
26 or personal representative; or

27 (3) An entity, whether or not incorporated, facility, or
28 institution employing one or more persons described in subsection (1)
29 of this section, including, but not limited to, a hospital, clinic,
30 health maintenance organization, or nursing home; or an officer,
31 director, employee, or agent thereof acting in the course and scope of
32 his employment, including, in the event such officer, director,
33 employee, or agent is deceased, his estate or personal representative;
34 based upon alleged professional negligence shall be commenced within
35 three years of the act or omission alleged to have caused the injury or
36 condition, or one year of the time the patient or his representative
37 discovered or reasonably should have discovered that the injury or

1 condition was caused by said act or omission, whichever period expires
2 later, except that in no event shall an action be commenced more than
3 eight years after said act or omission(~~(: PROVIDED, That)~~). However,
4 the time for commencement of an action is tolled upon proof of fraud,
5 intentional concealment, or the presence of a foreign body not intended
6 to have a therapeutic or diagnostic purpose or effect.

7 ~~((For purposes of this section, notwithstanding RCW 4.16.190, the
8 knowledge of a custodial parent or guardian shall be imputed to a
9 person under the age of eighteen years, and such imputed knowledge
10 shall operate to bar the claim of such minor to the same extent that
11 the claim of an adult would be barred under this section. Any action
12 not commenced in accordance with this section shall be barred.~~

13 ~~For purposes of this section, with respect to care provided after
14 June 25, 1976, and before August 1, 1986, the knowledge of a custodial
15 parent or guardian shall be imputed as of April 29, 1987, to persons
16 under the age of eighteen years.))~~

17 This section does not apply to a civil action based on intentional
18 conduct brought against those individuals or entities specified in this
19 section by a person for recovery of damages for injury occurring as a
20 result of childhood sexual abuse as defined in RCW 4.16.340(5).

21 **PART 4--EARLY DISPUTE RESOLUTION**

22 NEW SECTION. **Sec. 9.** (1) An attorney who represents a claimant who
23 has accepted an early settlement offer shall not collect a contingent
24 fee that is greater than ten percent of the amount of the early
25 settlement offer.

26 (2) An attorney who represents a claimant who has rejected or
27 failed to accept an early settlement offer shall not collect a
28 contingent fee that is greater than ten percent of the amount of the
29 early settlement offer plus the percentage of the amount recovered in
30 excess of the early settlement offer as was agreed to by the claimant
31 and the attorney.

32 (3) A claimant's attorney who has failed to make a demand for
33 compensation under section 10 of this act, or who has omitted from the
34 demand information required under section 10 of this act of a material
35 nature which the attorney had in his or her possession or which was
36 readily available to him or her, shall not collect a contingent fee
37 greater than ten percent of the amount recovered.

1 (4) A claimant's attorney who has failed to provide his or her
2 client a true and complete copy of an early settlement offer received
3 by the attorney, as required under section 11(3) of this act, shall not
4 collect a contingent fee greater than ten percent of the amount
5 recovered.

6 (5) Reasonable costs and expenses incurred by an attorney up to the
7 time of receipt of an early settlement offer are deducted from that
8 settlement offer for purposes of calculating the maximum permissible
9 fee under subsections (1) and (2) of this section.

10 (6) An attorney shall disclose, plainly and in writing, to
11 claimants whom the attorney proposes to represent on a contingent-fee
12 basis: (a) The fee limitations imposed by this section; and (b) the
13 fact that such limitations are maximum limits and that the attorney and
14 claimant may negotiate a lower fee. The attorney shall also provide to
15 each claimant a copy of chapter 4.-- RCW (sections 9 through 15 of this
16 act).

17 (7) The fee limitations imposed by this section may not be waived.

18 (8) This section applies to all attorneys practicing in this state,
19 including attorneys prosecuting claims filed in federal court, to the
20 maximum extent permitted by federal law.

21 NEW SECTION. **Sec. 10.** (1) An attorney representing a claimant on
22 a contingent-fee basis shall send a demand for compensation by
23 certified mail to each allegedly responsible party. In the event that
24 multiple allegedly responsible parties are known to the attorney, a
25 demand must be sent on the same date to each party. The demand must
26 specify the amount of compensation sought and must set forth the
27 material facts, documentary evidence, and other information relevant to
28 the demand, including:

29 (a) The name and address of the claimant or of the person on whose
30 behalf the claim is being made;

31 (b) A brief description of how the injury or loss occurred;

32 (c) The names and, if known, the addresses and telephone numbers of
33 all known witnesses to the injury or loss;

34 (d) Copies of photographs in the claimant's possession which relate
35 to the injury or loss;

36 (e) The basis for claiming that the party to whom the demand is
37 addressed is responsible or partially responsible for the injury or
38 loss;

1 (f) A description of the nature of the injury or loss, including
2 the dates and nature of the care or services provided, and the names
3 and addresses of all physicians and other health care providers that
4 provided medical care or services to the claimant or injured party;

5 (g) Medical records relating to the injury, including those
6 involving a prior injury or preexisting medical condition which would
7 be discoverable by the allegedly responsible party during the course of
8 litigation or, in lieu thereof, executed releases authorizing the
9 allegedly responsible party to obtain the records directly from those
10 health care providers who provided treatment to the claimant; and

11 (h) Documentation of any medical expenses, lost wages, personal
12 losses, and other economic and noneconomic losses suffered as a
13 consequence of the injury or loss.

14 (2) The attorney shall mail copies of each demand to the claimant
15 and to each and every allegedly responsible party.

16 (3) A claimant's attorney who learns of an additional allegedly
17 responsible party after making a demand for compensation under
18 subsection (1) of this section shall send a demand for compensation to
19 the newly discovered allegedly responsible party and simultaneously
20 mail a copy of the demand to each of the other allegedly responsible
21 parties and to the claimant.

22 (4) In the event that a claimant's attorney learns of an additional
23 allegedly responsible party more than ninety days after making a demand
24 for compensation under subsection (1) of this section, the attorney
25 shall not be required to send a demand to that party nor do the fee
26 limitations imposed under section 9 (1) and (2) of this act apply with
27 regard to an amount recovered from that party, except as provided by
28 this subsection. An attorney who fails as a result of a breach of the
29 standard of care to learn of an additional allegedly responsible party
30 within ninety days of sending a demand for compensation to another
31 allegedly responsible party shall not collect a fee in excess of that
32 allowed under section 9 (1) and (2) of this act with respect to an
33 amount recovered from the additional allegedly responsible party.

34 NEW SECTION. **Sec. 11.** (1) An offer by an allegedly responsible
35 party to settle a claim constitutes an early settlement offer if the
36 allegedly responsible party:

37 (a) Makes the settlement offer within sixty days of receipt of a
38 demand for compensation;

1 (b) Communicates the offer in writing and by certified mail to the
2 claimant's attorney; and

3 (c) Leaves the offer open for acceptance for a minimum of thirty
4 days from the date of its receipt by the claimant's attorney.

5 (2) An allegedly responsible party may amend or issue an additional
6 early settlement offer during the sixty-day period set forth in
7 subsection (1) of this section. An amended or additional early
8 settlement offer shall be subject to the requirements set forth in
9 subsection (1) of this section.

10 (3) A settlement offer that is made to a claimant prior to receipt
11 of a demand for compensation, and that conforms to the requirements of
12 subsection (1) of this section is deemed an early settlement offer and
13 has the same effect as if it were a response to a demand for
14 compensation.

15 (4) An allegedly responsible party is under no obligation to issue
16 a response to a demand for compensation. The fact that a demand for
17 compensation was or was not made, the fact that an early settlement
18 offer was or was not made, and the amount of any demand or settlement
19 offer made are inadmissible at a trial arising from the injury or loss.

20 (5) An attorney who receives an early settlement offer shall
21 provide a true and complete copy of the offer to his or her client.

22 NEW SECTION. **Sec. 12.** The legislature finds that the practices
23 covered by this chapter are matters vitally affecting the public
24 interest for the purpose of applying the consumer protection act,
25 chapter 19.86 RCW. A violation of this chapter is not reasonable in
26 relation to the development and preservation of business and is an
27 unfair or deceptive act in trade or commerce and an unfair method of
28 competition for the purpose of applying the consumer protection act,
29 chapter 19.86 RCW.

30 NEW SECTION. **Sec. 13.** A fiduciary relationship applies with
31 respect to a fee agreement between an attorney and a claimant.

32 NEW SECTION. **Sec. 14.** The definitions in this section apply
33 throughout this chapter unless the context clearly requires otherwise.

34 (1) "Allegedly responsible party" means a person, partnership, or
35 corporation alleged by a claimant to be responsible for at least some
36 portion of an injury or loss alleged by that claimant.

1 (2) "Amount recovered" means the total compensation, including the
2 reasonable value of nonmonetary compensation, that an attorney has
3 obtained on behalf of a claimant through settlement, arbitration, or
4 judgment, minus the reasonable costs and expenses incurred by the
5 attorney in prosecuting or settling the claim.

6 (3) "Claimant" means any natural person or persons seeking
7 compensation in connection with a claim for personal injury or wrongful
8 death, but does not include a claim for workers' compensation benefits,
9 or a case in which a court has certified the existence of a class
10 action pursuant to state or federal law.

11 (4) "Contingent fee" means compensation, however calculated, that
12 is payable only if an amount is recovered.

13 (5) "Early settlement offer" means a settlement offer made in
14 accordance with section 11 of this act.

15 NEW SECTION. **Sec. 15.** Sections 9 through 14 of this act apply to
16 all civil actions for damages for injury occurring as a result of
17 health care.

18 **Sec. 16.** RCW 4.24.005 and 1987 c 212 s 1601 are each amended to
19 read as follows:

20 Any party charged with the payment of attorney's fees in any tort
21 action may petition the court not later than forty-five days of receipt
22 of a final billing or accounting for a determination of the
23 reasonableness of that party's attorneys' fees. The court shall make
24 such a determination and shall take into consideration the following:

25 (1) The time and labor required, the novelty and difficulty of the
26 questions involved, and the skill requisite to perform the legal
27 service properly;

28 (2) The likelihood, if apparent to the client, that the acceptance
29 of the particular employment will preclude other employment by the
30 lawyer;

31 (3) The fee customarily charged in the locality for similar legal
32 services;

33 (4) The amount involved and the results obtained;

34 (5) The time limitations imposed by the client or by the
35 circumstances;

36 (6) The nature and length of the professional relationship with the
37 client;

1 (7) The experience, reputation, and ability of the lawyer or
2 lawyers performing the services;

3 (8) Whether the fee is fixed or contingent;

4 (9) Whether the fixed or contingent fee agreement was in writing
5 and whether the client was aware of his or her right to petition the
6 court under this section;

7 (10) The terms of the fee agreement.

8 However, an attorney's contingency fee is limited to the maximum
9 permissible fee allowed under chapter 4.-- RCW (sections 9 through 15
10 of this act).

11 **Sec. 17.** RCW 7.70.070 and 1975-'76 2nd ex.s. c 56 s 12 are each
12 amended to read as follows:

13 The court shall, in any action under this chapter, determine the
14 reasonableness of each party's attorneys fees. The court shall take
15 into consideration the following:

16 (1) The time and labor required, the novelty and difficulty of the
17 questions involved, and the skill requisite to perform the legal
18 service properly;

19 (2) The likelihood, if apparent to the client, that the acceptance
20 of the particular employment will preclude other employment by the
21 lawyer;

22 (3) The fee customarily charged in the locality for similar legal
23 services;

24 (4) The amount involved and the results obtained;

25 (5) The time limitations imposed by the client or by the
26 circumstances;

27 (6) The nature and length of the professional relationship with the
28 client;

29 (7) The experience, reputation, and ability of the lawyer or
30 lawyers performing the services;

31 (8) Whether the fee is fixed or contingent.

32 However, an attorney's contingency fee is limited to the maximum
33 permissible fee allowed under chapter 4.-- RCW (sections 9 through 15
34 of this act).

35 **PART 5--HEALTH PLAN LIABILITY**

