
HOUSE BILL 2169

State of Washington

55th Legislature

1997 Regular Session

By Representatives Cody, Backlund, Murray, H. Sommers, Huff, Skinner, Wood, Dunshee, Keiser, Ogden and Blalock

Read first time 02/25/97. Referred to Committee on Health Care.

1 AN ACT Relating to the state health care purchasing and policy
2 office; amending RCW 43.70.066, 43.70.068, and 43.72.310; adding new
3 sections to chapter 43.73 RCW; repealing RCW 43.73.010, 43.73.020, and
4 43.73.040; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.73 RCW
7 to read as follows:

8 (1) The governor shall establish a state health care purchasing and
9 policy office by July 1, 1997. The purpose of this office is to
10 develop and implement the most cost-effective methods of purchasing
11 health care coverage for public employees and other persons for whom
12 the state purchases health care. In establishing the office, the
13 director shall utilize the personnel and resources of existing state
14 health-related agencies to the extent possible.

15 (2) The office has the following responsibilities:

16 (a) Develop and implement, no later than January 1, 1999, a unified
17 purchasing process through managed care structures for the following:
18 Health care coverage provided to public employees as authorized by
19 chapter 41.05 RCW; the basic health plan authorized by chapter 70.47

1 RCW; and the medical assistance program authorized by chapter 74.09
2 RCW. In developing the process, the office shall consider, at least:
3 A single request for proposal and review instrument for any common
4 request-for-proposal component for all contractors; a single contract
5 period; unified requirements for plan governance, financial
6 requirements, and quality improvement requirements; and coordination of
7 related staff of the department of social and health services and the
8 state health care authority.

9 (b) Seek necessary federal waivers to implement this section.

10 (c) Analyze state statutes and recommend amendments, if any,
11 necessary to implement this section to the appropriate committees of
12 the legislature by December 1, 1998.

13 (d) In cooperation with other health-related state agencies,
14 analyze the feasibility and desirability of consolidating other state
15 purchased health care programs into the unified purchasing process set
16 forth in this section and report its findings to the appropriate
17 committees of the legislature by July 1, 1998.

18 (e) Make periodic recommendations to the appropriate committees of
19 the legislature on methods to improve the state health care system.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.73 RCW
21 to read as follows:

22 The governor shall appoint the director who shall be the
23 administrative officer and appointing authority of the office. The
24 director shall have the authority to employ personnel in accordance
25 with chapter 41.06 RCW and prescribe their duties. The director shall
26 also have the following powers and duties:

27 (1) Enter into contracts on behalf of the office;

28 (2) Accept and expend donations, grants, and other funds received
29 by the office; and

30 (3) Appoint advisory committees and undertake studies, research,
31 and analysis necessary to support activities of the office.

32 **Sec. 3.** RCW 43.70.066 and 1995 c 267 s 4 are each amended to read
33 as follows:

34 (1) The department of health in consultation with the ((health
35 policy board)) state health care purchasing and policy office shall
36 study the feasibility of a uniform quality assurance and improvement
37 program for use by all public and private health plans and health care

1 providers and facilities. In this study, the department shall consult
2 with:

- 3 (a) Public and private purchasers of health care services;
- 4 (b) Health carriers;
- 5 (c) Health care providers and facilities; and
- 6 (d) Consumers of health services.

7 (2) In conducting the study, the department shall propose standards
8 that meet the needs of affected persons and organizations, whether
9 public or private, without creation of differing levels of quality
10 assurance. All consumers of health services should be afforded the
11 same level of quality assurance.

12 (3) At a minimum, the study shall include but not be limited to the
13 following program components and indicators appropriate for consumer
14 disclosure:

15 (a) Health care provider training, credentialing, and licensure
16 standards;

17 (b) Health care facility credentialing and recredentialing;

18 (c) Staff ratios in health care facilities;

19 (d) Annual mortality and morbidity rates of cases based on a
20 defined set of procedures performed or diagnoses treated in health care
21 facilities, adjusted to fairly consider variable factors such as
22 patient demographics and case severity;

23 (e) The average total cost and average length of hospital stay for
24 a defined set of procedures and diagnoses;

25 (f) The total number of the defined set of procedures, by
26 specialty, performed by each physician at a health care facility within
27 the previous twelve months;

28 (g) Utilization performance profiles by provider, both primary care
29 and specialty care, that have been adjusted to fairly consider variable
30 factors such as patient demographics and severity of case;

31 (h) Health plan fiscal performance standards;

32 (i) Health care provider and facility recordkeeping and reporting
33 standards;

34 (j) Health care utilization management that monitors trends in
35 health service underutilization, as well as overutilization of
36 services;

37 (k) Health monitoring that is responsive to consumer, purchaser,
38 and public health assessment needs; and

1 (1) Assessment of consumer satisfaction and disclosure of consumer
2 survey results.

3 (4) In conducting the study, the department shall develop standards
4 that permit each health care facility, provider group, or health
5 carrier to assume responsibility for and determine the physical method
6 of collection, storage, and assimilation of quality indicators for
7 consumer disclosure. The study may define the forms, frequency, and
8 posting requirements for disclosure of information.

9 In developing proposed standards under this subsection, the
10 department shall identify options that would minimize provider burden
11 and administrative cost resulting from duplicative private sector data
12 submission requirements.

13 (5) The department shall submit a preliminary report to the
14 legislature by December 31, 1995, including recommendations for initial
15 legislation pursuant to subsection (6) of this section, and shall
16 submit supplementary reports and recommendations as completed,
17 consistent with appropriated funds and staffing.

18 (6) The department shall not adopt any rule implementing the
19 uniform quality assurance program or consumer disclosure provisions
20 unless expressly directed to do so by an act of law.

21 **Sec. 4.** RCW 43.70.068 and 1995 c 267 s 5 are each amended to read
22 as follows:

23 ~~((No later than July 1, 1995, the health care policy board))~~ The
24 state health care purchasing and policy office together with the
25 department of health, the health care authority, the department of
26 social and health services, the office of the insurance commissioner,
27 and the department of labor and industries shall form an interagency
28 group for coordination and consultation on quality assurance activities
29 and collaboration on final recommendations for the study required under
30 RCW 43.70.066. ~~((By December 31, 1996, the group shall review all~~
31 ~~state agency programs governing health service quality assurance, in~~
32 ~~light of legislative actions pursuant to RCW 43.70.066(6), and shall~~
33 ~~recommend to the legislature, the consolidation, coordination, or~~
34 ~~elimination of rules and programs that would be made unnecessary~~
35 ~~pursuant to the development of a uniform quality assurance and~~
36 ~~improvement program.))~~

1 **Sec. 5.** RCW 43.72.310 and 1995 c 267 s 8 are each amended to read
2 as follows:

3 (1) Until May 8, 1995, and after June 30, 1996, a (~~certified~~
4 ~~health plan~~) health carrier, health care facility, health care
5 provider, or other person involved in the development, delivery, or
6 marketing of health care or (~~certified health plans~~) health carriers
7 may request, in writing, that the (~~commission~~) state health care
8 purchasing and policy office obtain an informal opinion from the
9 attorney general as to whether particular conduct is authorized by
10 chapter 492, Laws of 1993. Trade secret or proprietary information
11 contained in a request for informal opinion shall be identified as such
12 and shall not be disclosed other than to an authorized employee of the
13 (~~commission~~) state health care purchasing and policy office or
14 attorney general without the consent of the party making the request,
15 except that information in summary or aggregate form and market share
16 data may be contained in the informal opinion issued by the attorney
17 general. The attorney general shall issue such opinion within thirty
18 days of receipt of a written request for an opinion or within thirty
19 days of receipt of any additional information requested by the attorney
20 general necessary for rendering an opinion unless extended by the
21 attorney general for good cause shown. If the attorney general
22 concludes that such conduct is not authorized by chapter 492, Laws of
23 1993, the person or organization making the request may petition the
24 (~~commission~~) state health care purchasing and policy office for
25 review and approval of such conduct in accordance with subsection (3)
26 of this section.

27 (2) After obtaining the written opinion of the attorney general and
28 consistent with such opinion, the (~~health services commission~~) state
29 health care purchasing and policy office:

30 (a) May authorize conduct by a (~~certified health plan~~) health
31 carrier, health care facility, health care provider, or any other
32 person that could tend to lessen competition in the relevant market
33 upon a strong showing that the conduct is likely to achieve the policy
34 goals of chapter 492, Laws of 1993 and a more competitive alternative
35 is impractical;

36 (b) Shall adopt rules governing conduct among providers, health
37 care facilities, and (~~certified health plans~~) health carriers
38 including rules governing provider and facility contracts with
39 (~~certified health plans~~) health carriers, rules governing the use of

1 "most favored nation" clauses and exclusive dealing clauses in such
2 contracts, and rules providing that (~~certified health plans~~) health
3 carriers in rural areas contract with a sufficient number and type of
4 health care providers and facilities to ensure consumer access to local
5 health care services;

6 (c) Shall adopt rules permitting health care providers within the
7 service area of a plan to collectively negotiate the terms and
8 conditions of contracts with a (~~certified health plan~~) health carrier
9 including the ability of providers to meet and communicate for the
10 purposes of these negotiations; and

11 (d) Shall adopt rules governing cooperative activities among health
12 care facilities and providers.

13 (3) Until May 8, 1995, and after June 30, 1996, a (~~certified~~
14 ~~health plan~~) health carrier, health care facility, health care
15 provider, or any other person involved in the development, delivery,
16 and marketing of health services or (~~certified health plans~~) health
17 carriers may file a written petition with the (~~commission~~) state
18 health care purchasing and policy office requesting approval of conduct
19 that could tend to lessen competition in the relevant market. Such
20 petition shall be filed in a form and manner prescribed by rule of the
21 (~~commission~~) state health care purchasing and policy office.

22 The (~~commission~~) state health care purchasing and policy office
23 shall issue a written decision approving or denying a petition filed
24 under this section within ninety days of receipt of a properly
25 completed written petition unless extended by the (~~commission~~) state
26 health care purchasing and policy office for good cause shown. The
27 decision shall set forth findings as to benefits and disadvantages and
28 conclusions as to whether the benefits outweigh the disadvantages.

29 (4) In authorizing conduct and adopting rules of conduct under this
30 section, the (~~commission~~) state health care purchasing and policy
31 office with the advice of the attorney general, shall consider the
32 benefits of such conduct in furthering the goals of health care reform
33 including but not limited to:

- 34 (a) Enhancement of the quality of health services to consumers;
- 35 (b) Gains in cost efficiency of health services;
- 36 (c) Improvements in utilization of health services and equipment;
- 37 (d) Avoidance of duplication of health services resources; or
- 38 (e) And as to (b) and (c) of this subsection: (i) Facilitates the
39 exchange of information relating to performance expectations; (ii)

1 simplifies the negotiation of delivery arrangements and relationships;
2 and (iii) reduces the transactions costs on the part of (~~certified~~
3 ~~health plans~~) health carriers and providers in negotiating more cost-
4 effective delivery arrangements.

5 These benefits must outweigh disadvantages including and not
6 limited to:

7 (i) Reduced competition among (~~certified health plans~~) health
8 carriers, health care providers, or health care facilities;

9 (ii) Adverse impact on quality, availability, or price of health
10 care services to consumers; or

11 (iii) The availability of arrangements less restrictive to
12 competition that achieve the same benefits.

13 (5) Conduct authorized by the (~~commission~~) state health care
14 purchasing and policy office shall be deemed taken pursuant to state
15 statute and in the furtherance of the public purposes of the state of
16 Washington.

17 (6) With the assistance of the attorney general's office, the
18 (~~commission~~) state health care purchasing and policy office shall
19 actively supervise any conduct authorized under this section to
20 determine whether such conduct or rules permitting certain conduct
21 should be continued and whether a more competitive alternative is
22 practical. The (~~commission~~) state health care purchasing and policy
23 office shall periodically review petitioned conduct through, at least,
24 annual progress reports from petitioners, annual or more frequent
25 reviews by the (~~commission~~) state health care purchasing and policy
26 office that evaluate whether the conduct is consistent with the
27 petition, and whether the benefits continue to outweigh any
28 disadvantages. If the (~~commission~~) state health care purchasing and
29 policy office determines that the likely benefits of any conduct
30 approved through rule, petition, or otherwise by the (~~commission~~)
31 state health care purchasing and policy office no longer outweigh the
32 disadvantages attributable to potential reduction in competition, the
33 (~~commission~~) state health care purchasing and policy office shall
34 order a modification or discontinuance of such conduct. Conduct
35 ordered discontinued by the (~~commission~~) state health care purchasing
36 and policy office shall no longer be deemed to be taken pursuant to
37 state statute and in the furtherance of the public purposes of the
38 state of Washington.

1 (7) Nothing contained in chapter 492, Laws of 1993 is intended to
2 in any way limit the ability of rural hospital districts to enter into
3 cooperative agreements and contracts pursuant to RCW 70.44.450 and
4 chapter 39.34 RCW.

5 (8) Only requests for informal opinions under subsection (1) of
6 this section and petitions under subsection (3) of this section that
7 were received prior to May 8, 1995, or after June 30, 1996, shall be
8 considered.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.73 RCW
10 to read as follows:

11 (1) The health care policy board is hereby abolished and its
12 powers, duties, and functions are hereby transferred to the state
13 health care purchasing and policy office. All references to the chair
14 or the health care policy board in the Revised Code of Washington shall
15 be construed to mean the director or the state health care purchasing
16 and policy office.

17 (2)(a) All reports, documents, surveys, books, records, files,
18 papers, or written material in the possession of the health care policy
19 board shall be delivered to the custody of the state health care
20 purchasing and policy office. All cabinets, furniture, office
21 equipment, motor vehicles, and other tangible property employed by the
22 health care policy board shall be made available to the state health
23 care purchasing and policy office. All funds, credits, or other assets
24 held by the health care policy board shall be assigned to the state
25 health care purchasing and policy office.

26 (b) Any appropriations made to the health care policy board shall,
27 on the effective date of this section, be transferred and credited to
28 the state health care purchasing and policy office.

29 (c) If any question arises as to the transfer of any personnel,
30 funds, books, documents, records, papers, files, equipment, or other
31 tangible property used or held in the exercise of the powers and the
32 performance of the duties and functions transferred, the director of
33 financial management shall make a determination as to the proper
34 allocation and certify the same to the state agencies concerned.

35 (3) All employees of the health care policy board are transferred
36 to the jurisdiction of the state health care purchasing and policy
37 office. All employees classified under chapter 41.06 RCW, the state
38 civil service law, are assigned to the state health care purchasing and

1 policy office to perform their usual duties upon the same terms as
2 formerly, without any loss of rights, subject to any action that may be
3 appropriate thereafter in accordance with the laws and rules governing
4 state civil service.

5 (4) All rules and all pending business before the health care
6 policy board shall be continued and acted upon by the state health care
7 purchasing and policy office. All existing contracts and obligations
8 shall remain in full force and shall be performed by the state health
9 care purchasing and policy office.

10 (5) The transfer of the powers, duties, functions, and personnel of
11 the health care policy board shall not affect the validity of any act
12 performed before the effective date of this section.

13 (6) If apportionments of budgeted funds are required because of the
14 transfers directed by this section, the director of financial
15 management shall certify the apportionments to the agencies affected,
16 the state auditor, and the state treasurer. Each of these shall make
17 the appropriate transfer and adjustments in funds and appropriation
18 accounts and equipment records in accordance with the certification.

19 (7) Nothing contained in this section may be construed to alter any
20 existing collective bargaining unit or the provisions of any existing
21 collective bargaining agreement until the agreement has expired or
22 until the bargaining unit has been modified by action of the personnel
23 board as provided by law.

24 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
25 repealed:

- 26 (1) RCW 43.73.010 and 1995 c 265 s 9;
- 27 (2) RCW 43.73.020 and 1995 c 265 s 10; and
- 28 (3) RCW 43.73.040 and 1995 c 265 s 12.

29 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 July 1, 1997, except section 1 of this act takes effect immediately.

--- END ---