

SENATE BILL REPORT

SHB 2360

As Reported By Senate Committee On:
Health & Long-Term Care, February 28, 2002

Title: An act relating to the regulation of negotiations between health care providers and health carriers.

Brief Description: Regulating negotiations between health providers and health carriers.

Sponsors: House Committee on Health Care (originally sponsored by Representatives Conway, Campbell, Cody, Edwards, Wood and Schual-Berke).

Brief History:

Committee Activity: Health & Long-Term Care: 2/27/02, 2/28/02 [DPA, DNP].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass as amended.

Signed by Senators Thibaudeau, Chair; Franklin, Vice Chair; Costa, Fraser and Winsley.

Minority Report: Do not pass.

Signed by Senators Deccio and Parlette.

Staff: Jonathan Seib (786-7427)

Background: State law authorizes health care providers to collectively negotiate the terms and conditions of contracts with health plans. This is a statutory legislative exemption from state anti-trust laws and provides immunity from federal anti-trust laws for a concerted activity that might be constrained by those laws. However, per se violations of state and federal anti-trust laws are not authorized.

In order to engage in collective negotiations, health providers must file a written petition with the Department of Health requesting approval, with the advice of the state Attorney General, and the department must issue a written decision within 90 days whether the benefits of competition outweigh the advantages of negotiation. With the assistance of the Attorney General, the department must actively supervise and periodically review the negotiations. The Secretary of Health must charge a fee, not exceeding \$25,000, for the filing of the petition, the Opinion of the Attorney General, and for the active supervision of negotiations, to defray the reasonable costs incurred in conducting the review.

By rule, reimbursement for provider services may not be the subject of negotiations; there is no requirement for health providers and health plans to negotiate in good faith; and there is no provision for voluntary mediation or arbitration in case of impasse.

Summary of Amended Bill: A Joint Committee on Collective Negotiations is established to study the appropriateness of collective negotiations on reimbursement for provider services;

options for voluntary mediation and arbitration; the requirement to bargain in good faith; and its impact on public access to health services, costs, and state and federal anti-trust laws. The committee is composed of two members from the House and Senate, respectively, one from each political caucus, and representatives of the Attorney General's Office, Department of Health, and the Office of the Insurance Commissioner. The committee must consult with health care provider associations, health insurance carriers, health consumer organizations, and other state agencies directly affected by the collective negotiations. The committee is required to issue a report to the Legislature by the first day of the 2003 legislative session. The committee's authority expires at that time. The committee shall use the staffing and support services of the House Office of Program Research and Senate Committee Services within available funds.

Amended Bill Compared to Substitute Bill: The amendment adds the requirement that in its deliberations, the committee also consult with health care consumer organizations.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Physicians and other providers are leaving Washington State, in part due to frustration with carriers. With the limited number of health carriers in the state, contracts with providers are rarely negotiated. Instead, providers are placed in a "take-it-or-leave-it" situation where they must simply acquiesce to the demands of the carriers. Carriers do not engage in good faith negotiations. This study will shine the light on problems with the current system and identify possible solutions.

Testimony Against: The purpose of the study is to simply identify legal loopholes to allow what the Attorney General has said should not occur. Giving providers greater ability to collectively negotiate will increase health care costs, decrease access, and do nothing to improve care. Resources would be better spent considering more effective means to improve the state's health care system.

Testified: PRO: Representative Conway, prime sponsor; Representative Campbell, sponsor; Doug Long, Washington State Chiropractic Association; Carl Nelson, Washington State Medical Association; CON: Basil Badley, HIAA, Davor Jurasic, Molina Health Care of Washington.