CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1311

Chapter 313, Laws of 2011

62nd Legislature
2011 Regular Session

HEALTH CARE--PUBLIC/PRIVATE COLLABORATIVE

EFFECTIVE DATE: 07/22/11

Passed by the House April 15, 2011
Yeas 58  Nays 38

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 6, 2011
Yeas 38  Nays 11

BRAD OWEN
President of the Senate

Approved May 11, 2011, 1:56 p.m.

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached ENGROSSED SUBSTITUTE HOUSE BILL 1311 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BART BAKER
Chief Clerk

FILED
May 11, 2011

CHRISTINE GREGOIRE
Secretary of State
State of Washington
AN ACT Relating to establishing a public/private collaborative to improve health care quality, cost-effectiveness, and outcomes in Washington state; amending RCW 70.250.010 and 70.250.030; adding a new section to chapter 70.250 RCW; creating a new section; and repealing RCW 70.250.020.

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

NEW SECTION. Sec. 1. (1) The legislature finds that:
(a) Efforts are needed across the health care system to improve the quality and cost-effectiveness of health care services provided in Washington state and to improve care outcomes for patients.
(b) Some health care services currently provided in Washington state present significant safety, efficacy, or cost-effectiveness concerns. Substantial variation in practice patterns or high utilization trends can be indicators of poor quality and potential waste in the health care system, without producing better care outcomes for patients.
(c) State purchased health care programs should partner with private health carriers, third-party purchasers, and health care
providers in shared efforts to improve quality, health outcomes, and
cost-effectiveness of care.

(2) The legislature declares that collaboration among state
purchased health care programs, private health carriers, third-party
purchasers, and health care providers to identify appropriate
strategies that will increase the effectiveness of health care
delivered in Washington state is in the best interest of the public.
The legislature therefore intends to exempt from state antitrust laws,
and to provide immunity from federal antitrust laws through the state
action doctrine, for activities undertaken pursuant to efforts designed
and implemented under this act that might otherwise be constrained by
such laws. The legislature does not intend and does not authorize any
person or entity to engage in activities or to conspire to engage in
activities that would constitute per se violations of state and federal
antitrust laws including, but not limited to, agreements among
competing health care providers or health carriers as to the price or
specific level of reimbursement for health care services.

(3) The legislature intends that the Robert Bree collaborative
established in section 3 of this act provide a mechanism through which
public and private health care purchasers, health carriers, and
providers can work together to identify effective means to improve
quality health outcomes and cost-effectiveness of care. It is not the
intent of the legislature to mandate payment or coverage decisions by
private health care purchasers or carriers.

Sec. 2. RCW 70.250.010 and 2009 c 258 s 1 are each amended to read
as follows:
The definitions in this section apply throughout this chapter
unless the context clearly requires otherwise.

(1) "Advanced diagnostic imaging services" means magnetic resonance
imaging services, computed tomography services, positron emission
tomography services, cardiac nuclear medicine services, and similar new
imaging services.

(2) "Authority" means the Washington state health care authority.

(3) "Collaborative" means the Robert Bree collaborative established
in section 3 of this act.

(4) "Payor" means ((public purchasers and)) carriers licensed under
chapters 48.21, 48.41, 48.44, 48.46, and 48.62 RCW.
"Public purchaser" means the department of social and health services, the department of health, the department of labor and industries, the authority, and the Washington state health insurance pool. "Self-funded health plan" means an employer-sponsored health plan or Taft-Hartley plan that is not provided through a fully insured health carrier.

"State purchased health care" has the same meaning as in RCW 41.05.011.

NEW SECTION. Sec. 3. A new section is added to chapter 70.250 RCW to read as follows:

(1) Consistent with the authority granted in RCW 41.05.013, the authority shall convene a collaborative, to be known as the Robert Bree collaborative. The collaborative shall identify health care services for which there are substantial variation in practice patterns or high utilization trends in Washington state, without producing better care outcomes for patients, that are indicators of poor quality and potential waste in the health care system. On an annual basis, the collaborative shall identify up to three health care services it will address.

(2) For each health care service identified, the collaborative shall:

(a) Analyze and identify evidence-based best practice approaches to improve quality and reduce variation in use of the service, including identification of guidelines or protocols applicable to the health care service. In evaluating guidelines, the collaborative should identify the highest quality guidelines based upon the most rigorous and transparent methods for identification, rating, and translation of evidence into practice recommendations.

(b) Identify data collection and reporting necessary to develop baseline health service utilization rates and to measure the impact of strategies adopted under this section. Methods for data collection and reporting should strive to minimize cost and administrative effort related to data collection and reporting wherever possible, including the use of existing data resources and nonfee-based tools for reporting.

(c) Identify strategies to increase use of the evidence-based best practice approaches identified under (a) of this subsection in both
state purchased and privately purchased health care plans. Strategies
considered should include, but are not limited to: Identifying goals
for appropriate utilization rates and reduction in practice variation
among providers; peer-to-peer consultation or second opinions; provider
feedback reports; use of patient decision aids; incentives for
appropriate use of health care services; centers of excellence or other
provider qualification standards; quality improvement systems; and
service utilization and outcomes reporting, including public reporting.
In developing strategies, the collaborative should strongly consider
related efforts of organizations such as the Puget Sound health
alliance, the Washington state hospital association, the national
quality forum, the joint commission on accreditation of health care
organizations, the national committee for quality assurance, the
foundation for health care quality, and, where appropriate, more
focused quality improvement efforts, such as the Washington state
perinatal advisory committee and the Washington state surgical care and
outcomes assessment program. The collaborative shall provide an
opportunity for public comment on the strategies chosen before
finalizing their recommendations.

(3) If the collaborative chooses a health care service for which
there is substantial variation in practice patterns or a high or low
utilization trend in Washington state, and a lack of evidence-based
best practice approaches, it should consider strategies that will
promote improved care outcomes, such as patient decision aids, provider
feedback reports, centers of excellence or other provider qualification
standards, and research to improve care quality and outcomes.

(4) The governor shall appoint twenty members of the collaborative,
who must include:

(a) Two members, selected from health carriers or third-party
administrators that have the most fully insured and self-funded covered
lives in Washington state. The count of total covered lives includes
enrollment in all companies included in their holding company system.
Each health carrier or third-party administrator is entitled to no more
than a single position on the collaborative to represent all entities
under common ownership or control;

(b) One member, selected from the health maintenance organization
having the most fully insured and self-insured covered lives in
Washington state. The count of total lives includes enrollment in all
companies included in its holding company system. Each health
maintenance organization is entitled to no more than a single position
on the collaborative to represent all entities under common ownership
or control;

(c) One member, chosen from among three nominees submitted by the
association of Washington health plans, representing national health
carriers that operate in multiple states outside of the Pacific Northwest;

(d) Four physicians, selected from lists of nominees submitted by
the Washington state medical association, as follows:

(i) Two physicians, one of whom must be a practicing primary care
physician, representing large multispecialty clinics with fifty or more
physicians, selected from a list of five nominees. The primary care
physician must be either a family physician, an internal medicine
physician, or a general pediatrician; and

(ii) Two physicians, one of whom must be a practicing primary care
physician, representing clinics with less than fifty physicians,
selected from a list of five nominees. The primary care physician must
be either a family physician, an internal medicine physician, or a
general pediatrician;

(e) One osteopathic physician, selected from a list of five
nominees submitted by the Washington state osteopathic medical
association;

(f) Two physicians representing the largest hospital-based
physician systems in the state, selected from a list of five nominees
submitted jointly by the Washington state medical association and the
Washington state hospital association;

(g) Three members representing hospital systems, at least one of
whom is responsible for quality, submitted from a list of six nominees
from the Washington state hospital association;

(h) Three members, representing self-funded purchasers of health
care services for employees;

(i) Two members, representing state purchased health care programs;

(j) One member, representing the Puget Sound health alliance.

(5) The governor shall appoint the chair of the collaborative.

(6) The collaborative shall add members to its membership or
establish clinical committees for each therapy under review by the
collaborative for the purpose of acquiring clinical expertise needed to
accomplish its responsibilities under this section and RCW 70.250.010
and 70.250.030. Membership of clinical committees should reflect
clinical expertise in the area of health care services being addressed
by the collaborative, including clinicians involved in related quality
improvement or comparative effectiveness efforts, as well as
nonphysician practitioners. Each clinical committee shall include at
least two members of the specialty or subspecialty society most
experienced with the health service identified for review.

(7) Permanent and ad hoc members of the collaborative or any of its
committees may not have personal financial conflicts of interest that
could substantially influence or bias their participation. If a
collaborative or committee member has a personal financial conflict of
interest with respect to a particular health care service being
addressed by the collaborative, he or she shall disclose such an
interest. The collaborative must determine whether the member should
be recused from any deliberations or decisions related to that service.

(8) A person serving on the collaborative or any of its clinical
committees shall be immune from civil liability, whether direct or
derivative, for any decisions made in good faith while pursuing
activities associated with the work of collaborative or any of its
clinical committees.

(9) The guidelines or protocols identified under this section shall
not be construed to establish the standard of care or duty of care owed
by health care providers in any cause of action occurring as a result
of health care.

(10) The collaborative shall actively solicit federal or private
funds and in-kind contributions necessary to complete its work in a
timely fashion. The collaborative shall not accept private funds if
receipt of such funding could present a potential conflict of interest
or bias in the collaborative's deliberations. Available state funds
may be used to support the work of the collaborative when the
collaborative has selected a health care service that is a high
utilization or high-cost service in state purchased health care
programs or the health care service is undergoing evaluation in one or
more state purchased health care programs and coordination will reduce
duplication of efforts. The collaborative shall not begin the work
(1) No member of the collaborative or its committees may be compensated for his or her service.

(12) The proceedings of the collaborative shall be open to the public and notice of meetings shall be provided at least twenty days prior to a meeting.

(13) The collaborative shall report to the administrator of the authority regarding the health services areas it has chosen and strategies proposed. The administrator shall review the strategies recommended in the report, giving strong consideration to the direction provided in section 1 of this act and this section. The administrator's review shall describe the outcomes of the review and any decisions related to adoption of the recommended strategies by state purchased health care programs. Following the administrator's review, the collaborative shall report to the legislature and the governor regarding chosen health services, proposed strategies, the results of the administrator's review, and available information related to the impact of strategies adopted in the previous three years on the cost and quality of care provided in Washington state. The initial report must be submitted by November 15, 2011, with annual reports thereafter.

Sec. 4. RCW 70.250.030 and 2009 c 258 s 3 are each amended to read as follows:

(1) No later than September 1, 2009, all state purchased health care programs shall, except for state purchased health care services that are purchased from or through health carriers as defined in RCW 48.43.005, implement evidence-based best practice guidelines or protocols applicable to advanced diagnostic imaging services, and the decision support tools to implement the guidelines or protocols, identified under RCW 70.250.020 section 3 of this act.

(2) By January 1, 2012, and every January 1st thereafter, all state purchased health care programs must implement the evidence-based best practice guidelines or protocols and strategies identified under section 3 of this act, after the administrator, in consultation with participating agencies, has affirmatively reviewed and endorsed the recommendations. This requirement applies to health carriers, as
defined in RCW 48.43.005 and to entities acting as third-party administrators that contract with state purchased health care programs to provide or administer health benefits for enrollees of those programs. If the collaborative fails to reach consensus within the time frames identified in this section and section 3 of this act, state purchased health care programs may pursue implementation of evidence-based strategies on their own initiative.

NEW SECTION. Sec. 5. RCW 70.250.020 (Work group--Members--Duties--Report--Expiration of work group) and 2009 c 258 s 2 are each repealed.

Passed by the House April 15, 2011.
Passed by the Senate April 6, 2011.
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