

# HOUSE BILL REPORT

## SHB 2360

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**As Passed House:**

February 18, 2002

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

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

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

**Brief History:**

**Committee Activity:**

Health Care: 1/24/02, 2/7/02 [DPS].

**Floor Activity:**

Passed House: 2/18/02, 74-24.

**Brief Summary of Substitute Bill**

- Establishes a Joint Select Committee on Collective Negotiations to study the appropriateness of collective negotiations on the terms and conditions of contracts, including reimbursement, between health providers and health insurance contracts.
- The Attorney General, Insurance Commissioner, and Department of Health are also members of the committee, which must consult with health provider associations and health insurance carriers in the study.
- A report with recommendations must be submitted to the legislature for the 2003 legislative session.

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### HOUSE COMMITTEE ON HEALTH CARE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Cody, Chair; Schual-Berke, Vice Chair; Campbell, Ranking Minority Member; Alexander, Ballasiotes, Benson, Conway, Darneille, Edwards, Ruderman and Skinner.

**Staff:** John Welsh (786-7133).

**Background:**

State law authorizes health providers through processes defined by rule of the Department of Health to collectively negotiate the terms and conditions of contracts with health plans, including the ability to meet and communicate for this purpose. 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 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.

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**Summary of Substitute 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, 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.

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**Appropriation:** None.**Fiscal Note:** Available.

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

**Testimony For:** There are documented shortages of health care providers in the state, including medical specialties, and hospital medical staff, according to recent reports from state agencies and the state hospital association. Low reimbursement of health providers is one of the compelling reasons causing physicians to leave the state for practice elsewhere. Health carriers have refused to discuss or negotiate reimbursement and the terms and conditions in contracts with health providers. Collective bargaining in good faith over wages and working conditions is a well settled tradition in this country.

**Testimony Against:** Collective bargaining over reimbursement violates state and federal anti-trust laws, and tends to raise prices for consumers.

**Testified:** (Support) Representative Conway, prime sponsor; Representative Campbell, secondary sponsor; Doug Long, Washington State Chiropractic Association; and Andy Dolan, Washington State Medical Association.

(Oppose) Mike Kipling, Association of Washington Healthcare Plans and Group Health; Karen Merrikin, Group Health; Len Soren, Premera Blue Cross; and Mel Sorensen, Employer Healthcare Coalition.