CERTIFICATION OF ENROLLMENT

**SECOND SUBSTITUTE SENATE BILL 5602**

66th Legislature

2019 Regular Session

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| Passed by the Senate April 26, 2019Yeas 29 Nays 20**President of the Senate**Passed by the House April 25, 2019Yeas 58 Nays 40**Speaker of the House of Representatives** | CERTIFICATEI, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5602** as passed by the Senate and the House of Representatives on the dates hereon set forth.Secretary |
| Approved  |  |
| **Governor of the State of Washington** | **Secretary of State** **State of Washington** |

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**SECOND SUBSTITUTE SENATE BILL 5602**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Randall, Wilson, C., Nguyen, Das, Saldaña, Cleveland, Takko, Kuderer, Hasegawa, Rolfes, Van De Wege, Keiser, Hunt, Wellman, Billig, Dhingra, Conway, Pedersen, Frockt, Salomon, Palumbo, Darneille, McCoy, Liias, Mullet, and Carlyle)

AN ACT Relating to eliminating barriers to reproductive health care for all; amending RCW 48.43.072; adding a new section to chapter 74.09 RCW; adding a new section to chapter 70.41 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 70.250 RCW; creating new sections; providing effective dates; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature finds and declares:

(1) It is the public policy of this state to provide the maximum access to reproductive health care and reproductive health care coverage for all people in Washington state.

(2) In 2018, the legislature passed Substitute Senate Bill No. 6219. Along with reproductive health care coverage requirements, the bill mandated a literature review of barriers to reproductive health care. As documented by the report submitted to the legislature on January 1, 2019, young people, immigrants, people living in rural communities, transgender and gender nonconforming people, and people of color still face significant barriers to getting the reproductive health care they need.

(3) Washingtonians who are transgender and gender nonconforming have important reproductive health care needs as well. These needs go unmet when, in the process of seeking care, transgender and gender nonconforming people are stigmatized or are denied critical health services because of their gender identity or expression.

(4) The literature review mandated by Substitute Senate Bill No. 6219 found that, "[a]ccording to 2015 U.S. Transgender Survey data, thirty-two percent of transgender respondents in Washington State reported that in the previous year they did not see a doctor when needed because they could not afford it."

(5) Existing state law should be enhanced to ensure greater coverage of and timely access to reproductive health care for the benefit of all Washingtonians, regardless of gender identity or expression.

(6) Because stigma is also a key barrier to access to reproductive health care, all Washingtonians, regardless of gender identity, should be free from discrimination in the provision of health care services, health care plan coverage, and in access to publicly funded health coverage.

(7) All people should have access to robust reproductive health services to maintain and improve their reproductive health.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) In the provision of reproductive health care services through programs under this chapter, the authority, managed care plans, and providers that administer or deliver such services may not discriminate in the delivery of a service provided through a program of the authority based on the covered person's gender identity or expression.

(2) The authority and any managed care plans delivering or administering services purchased or contracted for by the authority, may not issue automatic initial denials of coverage for reproductive health care services that are ordinarily or exclusively available to individuals of one gender, based on the fact that the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily or exclusively available.

(3) Denials as described in subsection (2) of this section are prohibited discrimination under chapter 49.60 RCW.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth.

(b) "Gender identity" means a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

(c) "Reproductive health care services" means any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.

(d) "Reproductive system" includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

(5) This section must not be construed to authorize discrimination on the basis of a covered person's gender identity or expression in the administration of any other medical assistance programs administered by the authority.

**Sec.**  RCW 48.43.072 and 2018 c 119 s 2 are each amended to read as follows:

(1) A health plan ((~~issued or renewed on or after January 1, 2019,~~)) or student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, shall provide coverage for:

(a) All contraceptive drugs, devices, and other products, approved by the federal food and drug administration, including over‑the‑counter contraceptive drugs, devices, and products, approved by the federal food and drug administration. This includes condoms, regardless of the gender or sexual orientation of the covered person, and regardless of whether they are to be used for contraception or exclusively for the prevention of sexually transmitted infections;

(b) Voluntary sterilization procedures;

(c) The consultations, examinations, procedures, and medical services that are necessary to prescribe, dispense, insert, deliver, distribute, administer, or remove the drugs, devices, and other products or services in (a) and (b) of this subsection((~~.~~));

(d) The following preventive services:

(i) Screening for physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and

(ii) Well-person preventive visits;

(e) Medically necessary services and prescription medications for the treatment of physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and

(f) The following reproductive health-related over-the-counter drugs and products approved by the federal food and drug administration: Prenatal vitamins for pregnant persons; and breast pumps for covered persons expecting the birth or adoption of a child.

(2) The coverage required by subsection (1) of this section:

(a) May not require copayments, deductibles, or other forms of cost sharing((~~,~~)):

(i) Except for:

(A) The medically necessary services and prescription medications required by subsection (1)(e) of this section; and

(B) The drugs and products in subsection (1)(f) of this section; or

(ii) Unless the health plan is offered as a qualifying health plan for a health savings account. For such a qualifying health plan, the carrier must establish the plan's cost sharing for the coverage required by subsection (1) of this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from ((~~his or her~~)) the enrollee's health savings account under internal revenue service laws and regulations; and

(b) May not require a prescription to trigger coverage of over‑the‑counter contraceptive drugs, devices, and products, approved by the federal food and drug administration, except those reproductive health related drugs and products as set forth in subsection (1)(f) of this section.

(3) A health carrier may not deny the coverage required in subsection (1) of this section because an enrollee changed ((~~his or her~~)) the enrollee's contraceptive method within a twelve-month period.

(4) Except as otherwise authorized under this section, a health benefit plan may not impose any restrictions or delays on the coverage required under this section, such as medical management techniques that limit enrollee choice in accessing the full range of contraceptive drugs, devices, or other products, approved by the federal food and drug administration.

(5) Benefits provided under this section must be extended to all enrollees, enrolled spouses, and enrolled dependents.

(6) This section may not be construed to allow for denial of care on the basis of race, color, national origin, sex, sexual orientation, gender expression or identity, marital status, age, citizenship, immigration status, or disability.

(7) A health plan or student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, issued or renewed on or after January 1, 2021, may not issue automatic initial denials of coverage for reproductive health care services that are ordinarily or exclusively available to individuals of one gender, based on the fact that the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily or exclusively available.

(8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth.

(b) "Gender identity" means a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

(c) "Reproductive health care services" means any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.

(d) "Reproductive system" includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

(e) "Well-person preventive visits" means the preventive annual visits recommended by the federal health resources and services administration women's preventive services guidelines, with the understanding that those visits must be covered for women, and when medically appropriate, for transgender, nonbinary, and intersex individuals.

(9) This section may not be construed to authorize discrimination on the basis of gender identity or expression, or perceived gender identity or expression, in the provision of nonreproductive health care services.

(10) The commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW shall share enforcement authority over complaints of discrimination under this section as set forth in RCW 49.60.178.

(11) The commissioner may adopt rules to implement this section.

NEW SECTION. **Sec.**  A new section is added to chapter 70.41 RCW to read as follows:

(1) By September 1, 2019, every hospital must submit to the department its policies related to access to care regarding:

(a) Admission;

(b) Nondiscrimination; and

(c) Reproductive health care.

(2) The department shall post a copy of the policies received under subsection (1) of this section on its web site.

(3) If a hospital makes changes to any of the policies listed under subsection (1) of this section, it must submit a copy of the changed policy to the department within thirty days after the hospital approves the changes.

(4) A hospital must post a copy of the policies provided to the department under subsection (1) of this section and the form required under subsection (5) of this section to the hospital's own web site in a location where the policies are readily accessible to the public without a required login or other restriction.

(5) By September 1, 2019, the department shall, in consultation with stakeholders including a hospital association and patient advocacy groups, develop a simple and clear form to be submitted by hospitals along with the policies required in subsection (1) of this section. The form must provide the public with specific information about which reproductive health care services are and are not generally available at each hospital. The form must include contact information for the hospital in case patients have specific questions about services available at the hospital.

NEW SECTION. **Sec.**  A new section is added to chapter 48.43 RCW to read as follows:

(1) The legislature intends to codify the state's current practice of requiring health carriers to bill enrollees with a single invoice and to segregate into a separate account the premium attributable to abortion services for which federal funding is prohibited. Washington has achieved full compliance with section 1303 of the federal patient protection and affordable care act by requiring health carriers to submit a single invoice to enrollees and to segregate into a separate account the premium amounts attributable to coverage of abortion services for which federal funding is prohibited. Further, section 1303 states that the act does not preempt or otherwise have any effect on state laws regarding the prohibition of, or requirement of, coverage, funding, or procedural requirements on abortions.

(2) In accordance with RCW 48.43.073 related to requirements for coverage and funding of abortion services, an issuer offering a qualified health plan must:

(a) Bill enrollees and collect payment through a single invoice that includes all benefits and services covered by the qualified health plan; and

(b) Include in the segregation plan required under applicable federal and state law a certification that the issuer's billing and payment processes meet the requirements of this section.

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

(1) No later than January 1, 2020, the collaborative shall begin a review to identify, define, and endorse guidelines for the provision of high quality sexual and reproductive health services in clinical settings throughout Washington. This shall include the development of specific clinical recommendations to improve sexual and reproductive health care for:

(a) People of color;

(b) Immigrants and refugees;

(c) Victims and survivors of violence; and

(d) People with disabilities.

(2) The collaborative shall conduct its review consistent with the activities, processes, and reporting standards specified in RCW 70.250.050. In conducting its review, the collaborative shall apply a whole-person framework to develop evidence-based, culturally sensitive recommendations to improve standards of care and health equity.

(3) By December 15, 2020, the collaborative, through the authority, shall provide a status report to the committees of the legislature with jurisdiction over matters related to health care and to the governor.

NEW SECTION. **Sec.**  The department of health shall develop recommendations for increasing awareness about financial support that is available for preexposure and postexposure prophylaxis. The department of health shall consult with the state board of health, the health care authority, and the health benefit exchange in developing its recommendation related to outreach and education to affected populations. By December 1, 2019, the department of health shall provide its recommendations to the appropriate committees of the legislature.

NEW SECTION. **Sec.**  This act may be known and cited as the reproductive health care access for all act.

NEW SECTION. **Sec.**  (1) Section 2 of this act takes effect January 1, 2020.

(2) Section 3 of this act takes effect January 1, 2021.

NEW SECTION. **Sec.**  Section 5 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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