

2SHB 2457 - S COMM AMD

By Committee on Health & Long Term Care

ADOPTED AS AMENDED 03/06/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Authority" means the health care authority.

7 (2) "Board" means the health care cost transparency board.

8 (3) "Health care" means items, services, and supplies intended to
9 improve or maintain human function or treat or ameliorate pain,
10 disease, condition, or injury including, but not limited to, the
11 following types of services:

- 12 (a) Medical;
- 13 (b) Behavioral;
- 14 (c) Substance use disorder;
- 15 (d) Mental health;
- 16 (e) Surgical;
- 17 (f) Optometric;
- 18 (g) Dental;
- 19 (h) Podiatric;
- 20 (i) Chiropractic;
- 21 (j) Psychiatric;
- 22 (k) Pharmaceutical;
- 23 (l) Therapeutic;
- 24 (m) Preventive;
- 25 (n) Rehabilitative;
- 26 (o) Supportive;
- 27 (p) Geriatric; or
- 28 (q) Long-term care.

29 (4) "Health care cost growth" means the annual percentage change
30 in total health care expenditures in the state.

1 (5) "Health care cost growth benchmark" means the target
2 percentage for health care cost growth.

3 (6) "Health care coverage" means policies, contracts,
4 certificates, and agreements issued or offered by a payer.

5 (7) "Health care provider" means a person or entity that is
6 licensed, certified, registered, or otherwise authorized by the law
7 of this state to provide health care in the ordinary course of
8 business or practice of a profession.

9 (8) "Net cost of private health care coverage" means the
10 difference in premiums received by a payer and the claims for the
11 cost of health care paid by the payer under a policy or certificate
12 of health care coverage.

13 (9) "Payer" means:

14 (a) A health carrier as defined in RCW 48.43.005;

15 (b) A publicly funded health care program, including medicaid,
16 medicare, the state children's health insurance program, and public
17 and school employee benefit programs administered under chapter 41.05
18 RCW;

19 (c) A third-party administrator; and

20 (d) Any other public or private entity, other than an individual,
21 that pays or reimburses the cost for the provision of health care.

22 (10) "Total health care expenditures" means all health care
23 expenditures in this state by public and private sources, including:

24 (a) All payments on health care providers' claims for
25 reimbursement for the cost of health care provided;

26 (b) All payments to health care providers other than payments
27 described in (a) of this subsection;

28 (c) All cost-sharing paid by residents of this state, including
29 copayments, deductibles, and coinsurance; and

30 (d) The net cost of private health care coverage.

31 NEW SECTION. **Sec. 2.** The authority shall establish a board to
32 be known as the health care cost transparency board. The board is
33 responsible for the analysis of total health care expenditures in
34 Washington, identifying trends in health care cost growth, and
35 establishing a health care cost growth benchmark. The board shall
36 provide analysis of the factors impacting these trends in health care
37 cost growth and, after review and consultation with identified
38 entities, shall identify those health care providers and payers that
39 are exceeding the health care cost growth benchmark.

1 NEW SECTION. **Sec. 3.** (1) The board shall consist of fourteen
2 members who shall be appointed as follows:

- 3 (a) The insurance commissioner, or the commissioner's designee;
4 (b) The administrator of the health care authority, or the
5 administrator's designee;
6 (c) The secretary of labor and industries, or the secretary's
7 designee;
8 (d) The chief executive officer of the health benefit exchange,
9 or the chief executive officer's designee;
10 (e) One member representing local governments that purchase
11 health care for their employees;
12 (f) Two members representing consumers;
13 (g) One member representing Taft-Hartley health benefit plans;
14 (h) Two members representing large employers, at least one of
15 which is a self-funded group health plan;
16 (i) One member representing small businesses;
17 (j) One member who is an actuary or an expert in health care
18 economics;
19 (k) One member who is an expert in health care financing; and
20 (l) One nonvoting member who is a member of the advisory
21 committee of health care providers and carriers and has operational
22 experience in health care delivery.

23 (2) The governor:

- 24 (a) Shall appoint the members of the board. Each of the two
25 largest caucuses in both the house of representatives and the senate
26 shall submit to the governor a list of five nominees. The nominees
27 must be for members of the board identified in subsection (1)(f)
28 through (k) of this section, may not be legislators, and, except for
29 the members of the board identified in subsection (1)(j) and (k) of
30 this section, the nominees may not be employees of the state or its
31 political subdivisions. No caucus may submit the same nominee. The
32 caucus nominations must reflect diversity in geography, gender, and
33 ethnicity;
34 (b) May reject a nominee and request a new submission from a
35 caucus if a nominee does not meet the requirements of this section;
36 and

37 (c) Must choose at least one nominee from each caucus.

38 (3) The governor shall appoint the chair of the board.

1 (4) (a) Initial members of the board shall serve staggered terms
2 not to exceed four years. Members appointed thereafter shall serve
3 two-year terms.

4 (b) A member of the board whose term has expired or who otherwise
5 leaves the board shall be replaced by gubernatorial appointment. Upon
6 the expiration of a member's term, the member shall continue to serve
7 until a successor has been appointed and has assumed office. When the
8 person leaving was nominated by one of the caucuses of the house of
9 representatives or the senate, his or her replacement shall be
10 appointed from a list of five nominees submitted by that caucus
11 within thirty days after the person leaves. If the member to be
12 replaced is the chair, the governor shall appoint a new chair within
13 thirty days after the vacancy occurs. A person appointed to replace a
14 member who leaves the board prior to the expiration of his or her
15 term shall serve only the duration of the unexpired term. Members of
16 the board may be reappointed to multiple terms.

17 (5) No member of the board may be appointed if the member's
18 participation in the decisions of the board could benefit the
19 member's own financial interests or the financial interests of an
20 entity the member represents. A board member who develops such a
21 conflict of interest shall resign or be removed from the board.

22 (6) Members of the board must be reimbursed for their travel
23 expenses while on official business in accordance with RCW 43.03.050
24 and 43.03.060. The board shall prescribe rules for the conduct of its
25 business. Meetings of the board are subject to the call of the chair.

26 (7) The board and its subcommittees are subject to the provisions
27 of chapter 42.30 RCW, the open public meetings act, and chapter 42.56
28 RCW, the public records act. The board and its subcommittees may not
29 disclose any health care information that identifies or could
30 reasonably identify the patient or consumer who is the subject of the
31 health care information.

32 (8) Members of the board are not civilly or criminally liable and
33 may not have any penalty or cause of action of any nature arise
34 against them for any action taken or not taken, including any
35 discretionary decision or failure to make a discretionary decision,
36 when the action or inaction is done in good faith and in the
37 performance of the powers and duties under this chapter.

38 NEW SECTION. **Sec. 4.** (1) The board shall establish an advisory
39 committee on data issues and an advisory committee of health care

1 providers and carriers. The board may establish other advisory
2 committees as it finds necessary.

3 (2) Appointments to the advisory committee on data issues shall
4 be made by the board. Members of the committee must have expertise in
5 health data collection and reporting, health care claims data
6 analysis, health care economic analysis, and actuarial analysis.

7 (3) Appointments to the advisory committee of health care
8 providers and carriers shall be made by the board and must include
9 the following membership:

10 (a) One member representing hospitals and hospital systems,
11 selected from a list of three nominees submitted by the Washington
12 state hospital association;

13 (b) One member representing federally qualified health centers,
14 selected from a list of three nominees submitted by the Washington
15 association for community health;

16 (c) One physician, selected from a list of three nominees
17 submitted by the Washington state medical association;

18 (d) One primary care physician, selected from a list of three
19 nominees submitted by the Washington academy of family physicians;

20 (e) One member representing behavioral health providers, selected
21 from a list of three nominees submitted by the Washington council for
22 behavioral health;

23 (f) One member representing pharmacists and pharmacies, selected
24 from a list of three nominees submitted by the Washington state
25 pharmacy association;

26 (g) One member representing advanced registered nurse
27 practitioners, selected from a list of three nominees submitted by
28 ARNPs united of Washington state;

29 (h) One member representing tribal health providers, selected
30 from a list of three nominees submitted by the American Indian health
31 commission;

32 (i) One member representing a health maintenance organization,
33 selected from a list of three nominees submitted by the association
34 of Washington health care plans;

35 (j) One member representing a managed care organization that
36 contracts with the authority to serve medical assistance enrollees,
37 selected from a list of three nominees submitted by the association
38 of Washington health care plans;

1 (k) One member representing a health care service contractor,
2 selected from a list of three nominees submitted by the association
3 of Washington health care plans;

4 (l) One member representing an ambulatory surgery center selected
5 from a list of three nominees submitted by the ambulatory surgery
6 center association; and

7 (m) Three members, at least one of whom represents a disability
8 insurer, selected from a list of six nominees submitted by America's
9 health insurance plans.

10 NEW SECTION. **Sec. 5.** (1) The board has the authority to
11 establish and appoint advisory committees, in accordance with the
12 requirements of section 4 of this act, and seek input and
13 recommendations from the advisory committees on topics relevant to
14 the work of the board;

15 (2) The board shall:

16 (a) Determine the types and sources of data necessary to annually
17 calculate total health care expenditures and health care cost growth,
18 and to establish the health care cost growth benchmark, including
19 execution of any necessary access and data security agreements with
20 the custodians of the data. The board shall first identify existing
21 data sources, such as the statewide health care claims database
22 established in chapter 43.371 RCW and prescription drug data
23 collected under chapter 43.71C RCW, and primarily rely on these
24 sources when possible in order to minimize the creation of new
25 reporting requirements;

26 (b) Determine the means and methods for gathering data to
27 annually calculate total health care expenditures and health care
28 cost growth, and to establish the health care cost growth benchmark.
29 The board must select an appropriate economic indicator to use when
30 establishing the health care cost growth benchmark. The activities
31 may include selecting methodologies and determining sources of data.
32 The board shall accept recommendations from the advisory committee on
33 data issues and the advisory committee of health care providers and
34 carriers regarding the value and feasibility of reporting various
35 categories of information under (c) of this subsection, such as urban
36 and rural, public sector and private sector, and major categories of
37 health services, including prescription drugs, inpatient treatment,
38 and outpatient treatment;

1 (c) Annually calculate total health care expenditures and health
2 care cost growth:

3 (i) Statewide and by geographic rating area;

4 (ii) For each health care provider or provider system and each
5 payer, taking into account the health status of the patients of the
6 health care provider or the enrollees of the payer, utilization by
7 the patients of the health care provider or the enrollees of the
8 payer, intensity of services provided to the patients of the health
9 care provider or the enrollees of the payer, and regional differences
10 in input prices. The board must develop an implementation plan for
11 reporting information about health care providers, provider systems,
12 and payers;

13 (iii) By market segment;

14 (iv) Per capita; and

15 (v) For other categories, as recommended by the advisory
16 committees in (b) of this subsection, and approved by the board;

17 (d) Annually establish the health care cost growth benchmark for
18 increases in total health expenditures. The board, in determining the
19 health care cost growth benchmark, shall begin with an initial
20 implementation that applies to the highest cost drivers in the health
21 care system and develop a phased plan to include other components of
22 the health system for subsequent years;

23 (e) Beginning in 2023, analyze the impacts of cost drivers to
24 health care and incorporate this analysis into determining the annual
25 total health care expenditures and establishing the annual health
26 care cost growth benchmark. The cost drivers may include, to the
27 extent such data is available:

28 (i) Labor, including but not limited to, wages, benefits, and
29 salaries;

30 (ii) Capital costs, including but not limited to new technology;

31 (iii) Supply costs, including but not limited to prescription
32 drug costs;

33 (iv) Uncompensated care;

34 (v) Administrative and compliance costs;

35 (vi) Federal, state, and local taxes;

36 (vii) Capacity, funding, and access to postacute care, long-term
37 services and supports, and housing; and

38 (viii) Regional differences in input prices; and

39 (f) Release reports in accordance with section 7 of this act.

1 NEW SECTION. **Sec. 6.** (1) The authority may contract with a
2 private nonprofit entity to administer the board and provide support
3 to the board to carry out its responsibilities under this chapter.
4 The authority may not contract with a private nonprofit entity that
5 has a financial interest that may create a potential conflict of
6 interest or introduce bias into the board's deliberations.

7 (2) The authority or the contracted entity shall actively solicit
8 federal and private funding and in-kind contributions necessary to
9 complete its work in a timely fashion. The contracted entity shall
10 not accept private funds if receipt of such funding could present a
11 potential conflict of interest or introduce bias into the board's
12 deliberations.

13 NEW SECTION. **Sec. 7.** (1) By August 1, 2021, the board shall
14 submit a preliminary report to the governor and each chamber of the
15 legislature. The preliminary report shall address the progress toward
16 establishment of the board and advisory committees and the
17 establishment of total health care expenditures, health care cost
18 growth, and the health care cost growth benchmark for the state,
19 including proposed methodologies for determining each of these
20 calculations. The preliminary report shall include a discussion of
21 any obstacles related to conducting the board's work including any
22 deficiencies in data necessary to perform its responsibilities under
23 section 5 of this act and any supplemental data needs.

24 (2) Beginning August 1, 2022, the board shall submit annual
25 reports to the governor and each chamber of the legislature. The
26 first annual report shall determine the total health care
27 expenditures for the most recent year for which data is available and
28 shall establish the health care cost growth benchmark for the
29 following year. The annual reports may include policy recommendations
30 applicable to the board's activities and analysis of its work,
31 including any recommendations related to lowering health care costs,
32 focusing on private sector purchasers, and the establishment of a
33 rating system of health care providers and payers.

34 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act
35 constitute a new chapter in Title 70 RCW."

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1 On page 1, line 2 of the title, after "expenditures;" strike the
2 remainder of the title and insert "and adding a new chapter to Title
3 70 RCW."

EFFECT: (1) Adds a member of the advisory committee of health care providers and carriers as a 14th, nonvoting member to the board;

(2) Requires each of the two largest caucuses of each chamber of the legislature to submit a list of 5 nominees to the governor. Requires the nominees to be for one of the 8 board positions listed in subsection (1)(f) through (k) of that section. Requires the caucus nominations to reflect diversity in geography, gender, and ethnicity. Clarifies that the governor may reject a nominee and request a new submission from a caucus if the nominee does not meet the necessary requirements;

(3) Requires the board, in calculating total health care expenditures and cost growth, to take into account utilization, intensity of services, and regional differences in input prices;

(4) Requires the board, beginning in 2023, to analyze the impacts of various cost drivers to health care, and incorporate the analysis into determining the annual total health care expenditures and in establishing the annual health care cost growth benchmark; and

(5) Adds a member representing an ambulatory surgery center to the members of the health care provider and carrier advisory committee.

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