

2 ESHB 1046 - S COMM AMD

3 By Committee on Health & Long-Term Care

4

5 Strike everything after the enacting clause and insert the
6 following:

7 **"PROTECTION OF CONSUMER CHOICE AND QUALITY HEALTH CARE**

8 NEW SECTION. **Sec. 1.** The legislature intends through the
9 enactment of this act to:

10 (1) Protect an individual's right to decide from which provider he
11 or she will receive health services and to maintain a high quality
12 health care system. The legislature intends to achieve this by:
13 Requiring certain insurers to offer a plan that allows consumers to see
14 "any willing provider"; maintaining traditional indemnity insurance
15 plans in addition to managed care plans; allowing the use of medical
16 savings accounts; providing whistleblower protection for anyone who
17 complains about the quality of care in any health facility or within
18 any health plan; requiring full disclosure of the contents of a health
19 plan; requiring disclosure of staff ratios in hospitals and
20 qualifications of providers; requiring plans to conduct annual patient
21 satisfaction surveys; and allowing employers, individuals, health care
22 facilities, and religiously sponsored health plans to choose
23 nonparticipation with any health service to which they object;

24 (2) Eliminate preexisting condition exclusions in insurance,
25 prevent cancellation of insurance because of sickness, and allow people
26 to change jobs without losing their health care coverage. The
27 legislature will achieve this by: Requiring insurers to renew policies
28 as long as the premiums are duly paid; prohibiting insurers from
29 denying a person insurance coverage because of a preexisting condition;
30 and allowing the insurance commissioner to assess penalties for
31 breaches of these provisions of law;

32 (3) Minimize the role of government in the state health care
33 system. The legislature intends to achieve this by: Abolishing
34 unneeded powers and duties of the health services commission; and
35 eliminating unnecessary regulations related to certified health plans;

1 (4) Protect individual's, family's, and businesses' ability to
2 maintain their health insurance and to allow those presently uninsured
3 to purchase health insurance by making health insurance more
4 affordable. The legislature will achieve this by allowing insurers to
5 give limited discounts based on age and healthy lifestyle factors;
6 allowing greater flexibility in the use of deductibles and coinsurance;
7 by preventing self-insured companies from initially profiting from a
8 healthier and less costly employee insurance pool and later cost-
9 shifting if their employee insurance pool becomes less healthy and more
10 costly; prohibiting insurers from cost-shifting from big business to
11 small business and individuals in the sale of supplemental benefits;
12 and permitting cooperative health care purchasing groups; and

13 (5) Advance the fundamental goal that all Washingtonians should
14 have access to health insurance and intends to achieve universal access
15 through incentives rather than an employer mandate. The legislature
16 intends to do this by: Expanding the existing basic health plan to two
17 hundred thousand enrollees; expanding the availability of medicaid to
18 an additional one hundred twenty-five thousand children; giving
19 preference in state government contracts to employers who provide
20 health insurance to their employees; allowing employers to sign up for
21 basic health plan health insurance through their periodic filings with
22 the department of labor and industries; and eliminating the employer
23 mandate.

24 **Sec. 2.** RCW 43.72.010 and 1994 c 4 s 1 are each amended to read as
25 follows:

26 In this chapter and chapter 43.70 RCW, unless the context otherwise
27 requires:

28 (1) "Certified health plan" or "plan" means a disability insurer
29 regulated under chapter 48.20 or 48.21 RCW, a health care service
30 contractor as defined in RCW 48.44.010, or a health maintenance
31 organization as defined in RCW 48.46.020(~~(, or an entity certified in~~
32 ~~accordance with RCW 48.43.020 through 48.43.120)~~)).

33 (2) "Chair" means the presiding officer of the Washington health
34 services commission.

35 (3) "Commission" or "health services commission" means the
36 Washington health services commission.

37 (4) "Community rate" (~~means~~):

1 (a) With respect to the minimum list of health services means the
2 rating method used to establish the premium for the ((uniform benefits
3 package)) minimum list of health services adjusted to reflect
4 actuarially demonstrated differences in utilization or cost
5 attributable to geographic region, wellness factors, age, and family
6 size as determined by the commission.

7 (i) Adjustments to the rates for a certified health plan product
8 permitted for age shall not result in a rate per enrollee of more than
9 three hundred percent of the lowest rate for any enrollee in 1996, and
10 two hundred fifty percent thereafter. Such age adjustments shall not
11 use age brackets smaller than five-year increments, and shall begin
12 with age twenty and end with age sixty-five;

13 (ii) Adjustments to the rates for a certified health plan product
14 permitted for wellness factors shall be limited to plus or minus ten
15 percent;

16 (iii) The rate charged for any certified health plan product may
17 not be adjusted more frequently than annually except for rate
18 decreases, except that rates may be changed to reflect enrollment
19 changes, changes in family composition of the enrollee, or benefit
20 changes to the health plan requested by the employer or enrollee;

21 (iv) Adjustment to the rates are permitted for coverage of one
22 child; and

23 (v) Wellness factors include activities, such as smoking cessation,
24 injury and accident prevention, reduction of alcohol or other drug
25 misuse, appropriate weight reduction, exercise, automobile and
26 motorcycle safety, blood cholesterol reduction, blood sugar control,
27 and nutrition education for the purpose of improving enrollee health
28 status and reducing health service costs.

29 (b) With respect to supplemental benefits, means a rating method
30 used to establish the premium for supplemental benefits adjusted to
31 reflect actuarially demonstrated differences in utilization.

32 (5) "Continuous quality improvement and total quality management"
33 means a continuous process to improve health services while reducing
34 costs.

35 (6) "Employee" means a resident who is in the employment of an
36 employer, as defined by chapter 50.04 RCW.

37 (7) "Enrollee" means any person who is a Washington resident
38 enrolled in a certified health plan.

1 (8) "Enrollee point of service cost-sharing" means amounts paid to
2 certified health plans directly providing services, health care
3 providers, or health care facilities by enrollees for receipt of
4 specific (~~(uniform benefits package)~~) minimum list of services, and may
5 include copayments, coinsurance, or deductibles(~~(, that together must~~
6 ~~be actuarially equivalent across plans and)~~) within overall limits
7 established by the commission.

8 The legislature approves the enrollee point of service cost-sharing
9 provisions set forth as of the effective date of this act in proposed
10 WAC 245-03-610 through 245-03-660 and directs the commission to adopt
11 those rules as submitted to the legislature.

12 Each certified health plan, other than health maintenance
13 organizations, will offer the minimum list of health services with at
14 least two of the following set of deductible options, revised
15 biannually to account for inflation using the consumer price index and
16 rounded to the nearest whole fifty dollars:

17 (a) Zero deductible;

18 (b) Two hundred fifty dollars deductible for individuals, seven
19 hundred fifty dollars deductible for families;

20 (c) Five hundred dollars deductible for individuals, one thousand
21 dollars deductible for families;

22 (d) One thousand dollars deductible for individuals, two thousand
23 dollars deductible for families.

24 (9) "Enrollee premium sharing" means that portion of the premium
25 that is paid by enrollees or their family members.

26 (10) "Federal poverty level" means the federal poverty guidelines
27 determined annually by the United States department of health and human
28 services or successor agency.

29 (11) "Health care facility" or "facility" means hospices licensed
30 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,
31 rural health care facilities as defined in RCW 70.175.020, psychiatric
32 hospitals licensed under chapter 71.12 RCW, nursing homes licensed
33 under chapter 18.51 RCW, community mental health centers licensed under
34 chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed
35 under chapter 70.41 RCW, ambulatory diagnostic, treatment or surgical
36 facilities licensed under chapter 70.41 RCW, drug and alcohol treatment
37 facilities licensed under chapter 70.96A RCW, and home health agencies
38 licensed under chapter 70.127 RCW, and includes such facilities if
39 owned and operated by a political subdivision or instrumentality of the

1 state and such other facilities as required by federal law and
2 implementing regulations, but does not include Christian Science
3 sanatoriums operated, listed, or certified by the First Church of
4 Christ Scientist, Boston, Massachusetts.

5 (12) "Health care provider" or "provider" means:

6 (a) A person regulated under Title 18 RCW (~~and~~) or chapter 70.127
7 RCW, to practice health or health-related services or otherwise
8 practicing health care services in this state consistent with state
9 law; or

10 (b) An employee or agent of a person described in (a) of this
11 subsection, acting in the course and scope of his or her employment.

12 (13) "Health insurance purchasing cooperative" or "cooperative"
13 means a member-owned and governed nonprofit organization certified in
14 accordance with RCW 43.72.080 and 48.43.160. Any group of individuals
15 may form a cooperative health care purchasing group in addition to and
16 separate from the authority of health insurance purchasing cooperatives
17 certified in accordance with RCW 43.72.080 and 48.43.160.

18 (14) "Long-term care" means institutional, residential, outpatient,
19 or community-based services that meet the individual needs of persons
20 of all ages who are limited in their functional capacities or have
21 disabilities and require assistance with performing two or more
22 activities of daily living for an extended or indefinite period of
23 time. These services include case management, protective supervision,
24 in-home care, nursing services, convalescent, custodial, chronic, and
25 terminally ill care.

26 (15) "Major capital expenditure" means any project or expenditure
27 for capital construction, renovations, or acquisition, including
28 medical technological equipment, as defined by the commission, costing
29 more than one million dollars.

30 (16) "Managed care" means an integrated system of insurance,
31 financing, and health services delivery functions that: (a) Assumes
32 financial risk for delivery of health services and uses a defined
33 network of providers; (~~or~~) (b) assumes financial risk for delivery of
34 health services and promotes the efficient delivery of health services
35 through provider assumption of some financial risk including
36 capitation, prospective payment, resource-based relative value scales,
37 fee schedules, or similar method of limiting payments to health care
38 providers; or (c) assumes financial risk for delivery of health
39 services and includes such cost-containment features as second surgical

1 opinions, precertification authorization, utilization review, or high
2 cost case management.

3 (17) "Maximum enrollee financial participation" means the income-
4 related total annual payments that may be required of an enrollee per
5 family who chooses one of the three lowest priced (~~((uniform benefits~~
6 ~~packages))~~ minimum list of services offered by plans in a geographic
7 region including both premium sharing and enrollee point of service
8 cost-sharing.

9 (18) "Minimum list of health services," "minimum health services
10 list," or "minimum health services" means that schedule of covered
11 health services, including the description of how those benefits are to
12 be administered, that are required to be delivered to an enrollee under
13 the basic health plan, as revised from time to time.

14 (~~((18))~~) (19) "Persons of color" means Asians/Pacific Islanders,
15 African, Hispanic, and Native Americans.

16 (~~((19))~~) (20) "Premium" means all sums charged, received, or
17 deposited by a certified health plan as consideration for (~~((a uniform~~
18 ~~benefits package))~~ the minimum list of health services or the
19 continuance of (~~((a uniform benefits package))~~ the minimum list of
20 health services. Any assessment, or any "membership," "policy,"
21 "contract," "service," or similar fee or charge made by the certified
22 health plan in consideration for the (~~((uniform benefits package))~~)
23 minimum list of health services is deemed part of the premium.
24 "Premium" shall not include amounts paid as enrollee point of service
25 cost-sharing.

26 (~~((20))~~) (21) "Qualified employee" means an employee who is
27 employed at least thirty hours during a week or one hundred twenty
28 hours during a calendar month.

29 (~~((21))~~) "~~Registered employer health plan~~" means ~~a health plan~~
30 ~~established by a private employer of more than seven thousand active~~
31 ~~employees in this state solely for the benefit of such employees and~~
32 ~~their dependents and that meets the requirements of RCW 43.72.120.~~
33 ~~Nothing contained in this subsection shall be deemed to preclude the~~
34 ~~plan from providing benefits to retirees of the employer.))~~

35 (22) "Supplemental benefits" means those appropriate and effective
36 health services that are not included in the (~~((uniform benefits~~
37 ~~package))~~ minimum list of health services or that expand the type or
38 level of health services available under the (~~((uniform benefits~~
39 ~~package))~~ minimum list of health services and that are offered to all

1 residents in accordance with the provisions of RCW 43.72.160 and
2 43.72.170.

3 (23) "Technology" means the drugs, devices, equipment, and medical
4 or surgical procedures used in the delivery of health services, and the
5 organizational or supportive systems within which such services are
6 provided. It also means sophisticated and complicated machinery
7 developed as a result of ongoing research in the basic biological and
8 physical sciences, clinical medicine, electronics, and computer
9 sciences, as well as specialized professionals, medical equipment,
10 procedures, and chemical formulations used for both diagnostic and
11 therapeutic purposes.

12 (24) "Uniform benefits package" or "package" means ~~((those
13 appropriate and effective health services, defined by the commission
14 under RCW 43.72.130, that must be offered to all Washington residents
15 through certified health plans.))~~ the "minimum list of health
16 services." References to "uniform benefits package" after the
17 effective date of this act, throughout the Revised Code of Washington
18 shall be construed to mean "minimum list of health services."

19 (25) "Washington resident" or "resident" means a person who intends
20 to reside in the state permanently or indefinitely and who did not move
21 to Washington for the primary purpose of securing health services under
22 ~~((RCW 43.72.090 through 43.72.240, 43.72.300, 43.72.310, 43.72.800))~~
23 this chapter, and chapters 48.43 and 48.85 RCW. "Washington resident"
24 also includes people and their accompanying family members who are
25 residing in the state for the purpose of engaging in employment for at
26 least one month, who did not enter the state for the primary purpose of
27 obtaining health services. The confinement of a person in a nursing
28 home, hospital, or other medical institution in the state shall not by
29 itself be sufficient to qualify such person as a resident.

30 **Sec. 3.** RCW 43.72.040 and 1994 c 4 s 3 are each amended to read as
31 follows:

32 The commission has the following powers and duties:

33 (1) ~~((Ensure that all residents of Washington state are enrolled in
34 a certified health plan to receive the uniform benefits package,
35 regardless of age, sex, family structure, ethnicity, race, health
36 condition, geographic location, employment, or economic status.~~

37 ~~(2))~~ Endeavor to ensure that all residents of Washington state
38 have access to appropriate, timely, confidential, and effective health

1 services, and monitor the degree of access to such services. If the
2 commission finds that individuals or populations lack access to
3 certified health plan services, the commission shall:

4 (a) Authorize appropriate state agencies, local health departments,
5 community or migrant health clinics, public hospital districts, or
6 other nonprofit health service entities to take actions necessary to
7 assure such access. This includes authority to contract for or
8 directly deliver services described within the ~~((uniform benefits
9 package))~~ minimum list of health services to special populations; or

10 (b) Notify appropriate certified health plans and the insurance
11 commissioner of such findings. The commission shall adopt by rule
12 standards by which the insurance commissioner may, in such event,
13 require certified health plans in closest proximity to such individuals
14 and populations to extend their catchment areas to those individuals
15 and populations and offer them enrollment.

16 ~~((+3))~~ (2) Adopt necessary rules in accordance with chapter 34.05
17 RCW to carry out the purposes of chapter 492, Laws of 1993. An initial
18 set of draft rules establishing at least the commission's organization
19 structure, the uniform benefits package, and standards for certified
20 health plan certification, must be submitted in draft form to
21 appropriate committees of the legislature by December 1, 1994.

22 ~~((+4))~~ (3) Establish and modify as necessary, in consultation with
23 the state board of health and the department of health, and in
24 coordination with the planning process set forth in RCW 43.70.520, a
25 uniform set of health services ~~((based on the recommendations of the
26 health care cost control and access commission established under House
27 Concurrent Resolution No. 4443 adopted by the legislature in 1990.~~

28 ~~(5) Establish and modify as necessary the uniform benefits package
29 as provided in RCW 43.72.130, which shall be offered to enrollees of a
30 certified health plan. The benefit package shall be provided at no
31 more than the maximum premium specified in subsection (6) of this
32 section)).~~

33 ~~((+6)(a))~~ (4) Establish for each year a community-rated maximum
34 premium for the ~~((uniform benefits package))~~ minimum list of health
35 services, adjusted for enrollee cost-sharing, that shall operate to
36 control overall health care costs. The maximum premium cost of the
37 ~~((uniform benefits package))~~ minimum list of health services in the
38 base year 1995 shall be established upon an actuarial determination of
39 the costs of providing the ~~((uniform benefits package))~~ minimum list of

1 health services and such other cost impacts as may be deemed relevant
2 by the commission. Beginning in 1996, the growth rate of the premium
3 cost of the (~~uniform benefits package~~) minimum list of health
4 services for each certified health plan shall be allowed to increase by
5 a rate no greater than the average growth rate in the cost of the
6 package between 1990 and 1993 as actuarially determined, reduced by two
7 percentage points per year until the growth rate is no greater than the
8 five-year rolling average of growth in Washington per capita personal
9 income, as determined by the office of financial management.

10 ~~((b) In establishing the community-rated maximum premium under~~
11 ~~this subsection, the commission shall review various methods for~~
12 ~~establishing the community-rated maximum premium and shall recommend~~
13 ~~such methods to the legislature by December 1, 1994.~~

14 The commission may develop and recommend a rate for employees that
15 provides nominal, if any, variance between the rate for individual
16 employees and employees with dependents to minimize any economic
17 incentive to an employer to discriminate between prospective employees
18 based upon whether or not they have dependents for whom coverage would
19 be required.

20 ~~(c) If the commission adds or deletes services or benefits to the~~
21 ~~uniform benefits package in subsequent years, it may increase or~~
22 ~~decrease the maximum premium to reflect the actual cost experience of~~
23 ~~a broad sample of providers of that service in the state, considering~~
24 ~~the factors enumerated in (a) of this subsection and adjusted~~
25 ~~actuarially. The addition of services or benefits shall not result in~~
26 ~~a redetermination of the entire cost of the uniform benefits package.~~

27 ~~(d) The level of state expenditures for the uniform benefits~~
28 ~~package shall be limited to the appropriation of funds specifically for~~
29 ~~this purpose.~~

30 ~~(7) Determine the need for medical risk adjustment mechanisms to~~
31 ~~minimize financial incentives for certified health plans to enroll~~
32 ~~individuals who present lower health risks and avoid enrolling~~
33 ~~individuals who present higher health risks, and to minimize financial~~
34 ~~incentives for employer hiring practices that discriminate against~~
35 ~~individuals who present higher health risks. In the design of medical~~
36 ~~risk distribution mechanisms under this subsection, the commission~~
37 ~~shall (a) balance the benefits of price competition with the need to~~
38 ~~protect certified health plans from any unsustainable negative effects~~
39 ~~of adverse selection; (b) consider the development of a system that~~

1 creates a risk profile of each certified health plan's enrollee
2 population that does not create disincentives for a plan to control
3 benefit utilization, that requires contributions from plans that enjoy
4 a low risk enrollee population to plans that have a high risk enrollee
5 population, and that does not permit an adjustment of the premium
6 charged for the uniform benefits package or supplemental coverage based
7 upon either receipt or contribution of assessments; and (c) consider
8 whether registered employer health plans should be included in any
9 medical risk adjustment mechanism. Proposed medical risk adjustment
10 mechanisms shall be submitted to the legislature as provided in RCW
11 43.72.180.

12 ~~((8))~~ (5) Design a mechanism to assure minors have access to
13 confidential health care services as currently provided in RCW
14 70.24.110 and 71.34.030.

15 ~~((9))~~ (6) Monitor the actual growth in total annual health
16 services costs.

17 ~~((10))~~ (7) Monitor the increased application of technology as
18 required by chapter 492, Laws of 1993 and take necessary action to
19 ensure that such application is made in a cost-effective and efficient
20 manner and consistent with existing laws that protect individual
21 privacy.

22 ~~((11))~~ (8) Establish reporting requirements for certified health
23 plans that own or manage health care facilities, health care
24 facilities, and health care providers to periodically report to the
25 commission regarding major capital expenditures of the plans. The
26 commission shall review and monitor such reports and shall report to
27 the legislature regarding major capital expenditures on at least an
28 annual basis. The Washington health care facilities authority and the
29 commission shall develop standards jointly for evaluating and approving
30 major capital expenditure financing through the Washington health care
31 facilities authority, as authorized pursuant to chapter 70.37 RCW. By
32 December 1, 1994, the commission and the authority shall submit jointly
33 to the legislature such proposed standards. The commission and the
34 authority shall, after legislative review, but no later than June 1,
35 1995, publish such standards. Upon publication, the authority may not
36 approve financing for major capital expenditures unless approved by the
37 commission.

38 ~~((12))~~ (9) Establish maximum enrollee financial participation
39 levels. The levels shall be related to enrollee household income.

1 (~~(13)~~) Establish rules requiring employee enrollee premium sharing,
2 as defined in RCW 43.72.010(9), be paid through deductions from wages
3 or earnings.

4 (~~(14)~~) (10) For health services provided under the (~~(uniform~~
5 ~~benefits package)~~) minimum list of health services and supplemental
6 benefits, adopt standards for enrollment, and standardized billing and
7 claims processing forms. The standards shall ensure that these
8 procedures minimize administrative burdens on health care providers,
9 health care facilities, certified health plans, and consumers. Subject
10 to federal approval or phase-in schedules whenever necessary or
11 appropriate, the standards also shall apply to state-purchased health
12 services, as defined in RCW 41.05.011.

13 (~~(15)~~) (11) Propose that certified health plans adopt certain
14 practice indicators or risk management protocols for quality assurance,
15 utilization review, or provider payment. The commission may consider
16 indicators or protocols recommended according to RCW 43.70.500 for
17 these purposes.

18 (~~(16)~~) (12) Propose other guidelines to certified health plans
19 for utilization management, use of technology and methods of payment,
20 such as diagnosis-related groups and a resource-based relative value
21 scale. Such guidelines shall be voluntary and shall be designed to
22 promote improved management of care, and provide incentives for
23 improved efficiency and effectiveness within the delivery system.

24 (~~(17)~~) (13) Adopt standards and oversee and develop policy for
25 personal health data and information system as provided in chapter
26 70.170 RCW.

27 (~~(18)~~) (14) Adopt standards that prevent conflict of interest by
28 health care providers as provided in RCW 18.130.320.

29 (~~(19)~~) (15) At the appropriate juncture and in the fullness of
30 time, consider the extent to which (~~(medical research and)~~) health
31 professions training activities should be included within the health
32 service system set forth in chapter 492, Laws of 1993.

33 (~~(20)~~) (16) Evaluate and monitor the extent to which racial and
34 ethnic minorities have access to and receive health services within the
35 state, and develop strategies to address barriers to access.

36 (~~(21)~~) (17) Develop standards for the certification process to
37 certify health plans and employer health plans to provide the (~~(uniform~~
38 ~~benefits package)~~) minimum list of health services, according to the

1 provisions for certified health plans and registered employer health
2 plans under chapter 492, Laws of 1993.

3 ~~((22) Develop rules for implementation of individual and employer~~
4 ~~participation under RCW 43.72.210 and 43.72.220 specifically applicable~~
5 ~~to persons who work in this state but do not live in the state or~~
6 ~~persons who live in this state but work outside of the state. The~~
7 ~~rules shall be designed so that these persons receive coverage and~~
8 ~~financial requirements that are comparable to that received by persons~~
9 ~~who both live and work in the state.~~

10 (23) After receiving advice from the health services effectiveness
11 committee, adopt rules that must be used by certified health plans,
12 disability insurers, health care service contractors, and health
13 maintenance organizations to determine whether a procedure, treatment,
14 drug, or other health service is no longer experimental or
15 investigative.

16 (24) Establish a process for purchase of uniform benefits package
17 services by enrollees when they are out of state.

18 (25) Develop recommendations to the legislature as to whether state
19 and school district employees, on whose behalf health benefits are or
20 will be purchased by the health care authority pursuant to chapter
21 41.05 RCW, should have the option to purchase health benefits through
22 health insurance purchasing cooperatives on and after July 1, 1997. In
23 developing its recommendations, the commission shall consider:

24 (a) The impact of state or school district employees purchasing
25 through health insurance purchasing cooperatives on the ability of the
26 state to control its health care costs; and

27 (b) Whether state or school district employees purchasing through
28 health insurance purchasing cooperatives will result in inequities in
29 health benefits between or within groups of state and school district
30 employees.

31 (26) Establish guidelines for providers dealing with terminal or
32 static conditions, taking into consideration the ethics of providers,
33 patient and family wishes, costs, and survival possibilities.

34 (27) Evaluate the extent to which Taft-Hartley health care trusts
35 provide benefits to certain individuals in the state; review the
36 federal laws under which these trusts are organized; and make
37 appropriate recommendations to the governor and the legislature on or
38 before December 1, 1994, as to whether these trusts should be brought
39 under the provisions of chapter 492, Laws of 1993 when it is fully

1 implemented, and if the commission recommends inclusion of the trusts,
2 how to implement such inclusion.

3 ~~(28))~~ (18) Evaluate whether Washington is experiencing a higher
4 percentage in in-migration of residents from other states and
5 territories than would be expected by normal trends as a result of the
6 availability of unsubsidized and subsidized health care benefits for
7 all residents and report to the governor and the legislature their
8 findings.

9 ~~((29) In developing the uniform benefits package and other
10 standards pursuant to this section, consider the likelihood of the
11 establishment of a national health services plan adopted by the federal
12 government and its implications.~~

13 ~~(30))~~ (19) Evaluate the effect of reforms under chapter 492, Laws
14 of 1993 on access to care and economic development in rural areas.

15 (20) Periodically make recommendations to the appropriate
16 committees of the legislature and the governor regarding the minimum
17 list of health services.

18 (21) Review and report on the use of medical savings accounts,
19 including their impact on health of participants, and the cost of
20 health insurance and cost shifting to, or from, other state residents
21 who purchase insurance.

22 (22) Conduct a study to identify the number of children with
23 special health care needs and the cost of providing their health care.
24 Children with special health care needs may include children who have
25 multiple diagnoses including birth defects, congenital heart defects,
26 cancer, kidney disease, respiratory, metabolic and neurological
27 problems, diabetes, sickle cell disease, HIV infection, rheumatological
28 disorders, and posttraumatic injuries, any of which may require care
29 for longer than a year. The commission shall make recommendations on
30 an optimal system for managing health care services to children with
31 special needs and report back to the legislature on their findings by
32 January 1, 1996.

33 (23) Perform such planning and advisory duties as are required
34 according to RCW 43.72.800 in order to recommend the inclusion of
35 certain long-term care services in the minimum list of health services
36 by July 1999.

37 (24) Review rules prepared by the insurance commissioner, health
38 care authority, and department of health, and make recommendations to

1 them where appropriate to facilitate consistency with the policies of
2 this act.

3 To the extent that the exercise of any of the powers and duties
4 specified in this section may be inconsistent with the powers and
5 duties of other state agencies, offices, or commissions, the authority
6 of the commission shall supersede that of such other state agency,
7 office, or commission, except in matters of personal health data, where
8 the commission shall have primary data system policy-making authority
9 and the department of health shall have primary responsibility for the
10 maintenance and routine operation of personal health data systems.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.72 RCW
12 to read as follows:

13 (1) On or after January 1, 1996, no person or entity in this state
14 shall offer a benefits package of the minimum list of health services
15 or supplemental benefits without approval according to this section and
16 related rules adopted by the insurance commissioner.

17 (2) On and after January 1, 1996, no certified health plan may
18 offer a benefits package less than the minimum list of health services
19 to residents of this state.

20 (3) Any certified health plan that submits a letter to the
21 insurance commissioner stating their intent to offer the minimum list
22 of health services, and that is determined by the commissioner to
23 contain such documentation as may be required in rule, is deemed
24 provisionally approved to offer the minimum list of health services.
25 This provisional approval is valid for a length of time, to be
26 determined by the commissioner, of no more than two years.

27 (4) To receive full approval to offer the minimum list of health
28 services, prior to the expiration of the period of provisional approval
29 under subsection (3) of this section, the certified health plan must
30 demonstrate to the insurance commissioner that the certified health
31 plan complies with WAC 245-04-050, or the certified health plan will
32 lose their license as a health maintenance organization, health care
33 service contractor, or disability insurer.

34 (5) No certified health plan may offer the minimum list of health
35 services in this state as a health care service contractor, disability
36 insurer, or health maintenance organization for more than two years
37 under provisional approval without receiving full approval as a
38 certified health plan from the insurance commissioner.

1 (6) Anyone violating subsection (1) or (2) of this section is
2 liable for a fine not to exceed ten thousand dollars and imprisonment
3 not to exceed six months for each instance of such violation.

4 **Sec. 5.** RCW 43.72.100 and 1993 c 492 s 428 are each amended to
5 read as follows:

6 A certified health plan shall:

7 (1) Provide the benefits included in the ~~((uniform benefits~~
8 ~~package))~~ minimum list of health services to enrolled Washington
9 residents for a ~~((prepaid per capita))~~ community-rated premium not to
10 exceed the maximum premium established by the commission and provide
11 such benefits through managed care in accordance with rules adopted by
12 the commission: PROVIDED, That certified health plans shall not be
13 required to sell the minimum list of health services at the "community
14 rate" to any individual who is at the time of proposed enrollment in
15 the certified health plan employed by a self-insured employer, or to
16 any employer who was self-insured after December 31, 1995: PROVIDED
17 FURTHER, That nothing herein shall permit a certified health plan to
18 sell the minimum list of services at less than the community rate;

19 (2) Offer supplemental benefits to enrolled Washington residents
20 for a ~~((prepaid per capita))~~ community-rated premium and provide such
21 benefits through managed care in accordance with rules adopted by the
22 commission;

23 (3) Except for a health maintenance organization licensed under
24 chapter 48.46 RCW, have available for purchase the minimum list of
25 health services in at least one plan that provides direct enrollee
26 access to any health provider eligible to receive payment under that
27 plan. This plan may encourage, but not require, its enrollees to use
28 the most cost-effective providers through variable enrollee
29 participation incentives. However, in no instances shall the patient
30 be liable for any balance billing by the provider beyond the normal
31 copayment, or coinsurance. Within this plan, the certified health plan
32 must permit every health care provider willing and able to meet the
33 terms and conditions of the plan to provide health services or care for
34 conditions included in the minimum list of health services to the
35 extent that:

36 (a) The provision of such health services or care is within the
37 health care providers' permitted scope of practice; and

1 (b) The providers agree to abide by the plan's standards related
2 to:

3 (i) Provision, utilization review, and cost-containment of health
4 services;

5 (ii) Management and administrative procedures; and

6 (iii) Provision of cost-effective and clinically efficacious health
7 services;

8 (4) Accept for enrollment any state resident within the plan's
9 service area and provide or assure the provision of all services within
10 the ((uniform benefits package)) minimum list of health services and
11 offer supplemental benefits regardless of age, sex, family structure,
12 ethnicity, race, health condition, geographic location, employment
13 status, socioeconomic status, other condition or situation, or the
14 provisions of RCW 49.60.174(2). The insurance commissioner may grant
15 a temporary exemption from this subsection, if, upon application by a
16 certified health plan, the commissioner finds that the clinical,
17 financial, or administrative capacity to serve existing enrollees will
18 be impaired if a certified health plan is required to continue
19 enrollment of additional eligible individuals;

20 ((+4)) (5) If the plan provides benefits through contracts with,
21 ownership of, or management of health care facilities and contracts
22 with or employs health care providers, demonstrate to the satisfaction
23 of the insurance commissioner in consultation with the department of
24 health and the commission that its facilities and personnel are
25 adequate to provide the benefits prescribed in the ((uniform benefits
26 package)) minimum list of health services and offer supplemental
27 benefits to enrolled Washington residents, and that it is financially
28 capable of providing such residents with, or has made adequate
29 contractual arrangements with health care providers and facilities to
30 provide enrollees with such benefits;

31 ((+5)) (6) Comply with portability of benefits requirements
32 prescribed by the commission;

33 ((+6)) (7) Comply with administrative rules prescribed by the
34 commission, department of health, the insurance commissioner, and other
35 state agencies governing certified health plans;

36 ((+7)) (8) Provide all enrollees with instruction and
37 informational materials to increase individual and family awareness of
38 injury and illness prevention; encourage assumption of personal
39 responsibility for protecting personal health; and stimulate discussion

1 about the use and limits of medical care in improving the health of
2 individuals and communities;

3 (9) Provide enrollees, and upon request, potential enrollees, with
4 written disclosure of coverage and benefits, including coverage
5 principles and any exclusions or restrictions on coverage, and make
6 available upon request information on evaluation and treatment policies
7 for specific conditions. Such information must be current, easily
8 understandable, and easily available prior to enrollment and upon
9 request thereafter;

10 (10) Conduct annual enrollee satisfaction surveys and provide the
11 survey results to their enrollees. The department of health shall set
12 the form of such surveys in rule based on the recommendations of the
13 health services commission in consultation with certified health plans;

14 ~~((+8))~~ (11) Disclose to enrollees the charity care requirements
15 under chapter 70.170 RCW;

16 ~~((+9))~~ (12) Include in all of its contracts with health care
17 providers and health care facilities a provision prohibiting such
18 providers and facilities from billing enrollees for any amounts in
19 excess of applicable enrollee point of service cost-sharing obligations
20 for services included in the ~~((uniform benefits package))~~ minimum list
21 of health services and supplemental benefits;

22 ~~((+10))~~ (13) Include in all of its contracts issued for ~~((uniform~~
23 benefits package)) minimum list of health services and supplemental
24 benefits coverage a subrogation provision that allows the certified
25 health plan to recover the costs of ~~((uniform benefits package))~~
26 minimum list of health services and supplemental benefits services
27 incurred to care for an enrollee injured by a negligent third party.
28 The costs recovered shall be limited to:

29 (a) If the certified health plan has not intervened in the action
30 by an injured enrollee against a negligent third party, then the amount
31 of costs the certified health plan can recover shall be limited to the
32 excess remaining after the enrollee has been fully compensated for his
33 or her loss minus a proportionate share of the enrollee's costs and
34 fees in bringing the action. The proportionate share shall be
35 determined by:

36 (i) The fees and costs approved by the court in which the action
37 was initiated; or

1 (ii) The written agreement between the attorney and client that
2 established fees and costs when fees and costs are not addressed by the
3 court.

4 When fees and costs have been approved by a court, after notice to
5 the certified health plan, the certified health plan shall have the
6 right to be heard on the matter of attorneys' fees and costs or its
7 proportionate share;

8 (b) If the certified health plan has intervened in the action by an
9 injured enrollee against a negligent third party, then the amount of
10 costs the certified health plan can recover shall be the excess
11 remaining after the enrollee has been fully compensated for his or her
12 loss or the amount of the plan's incurred costs, whichever is less;

13 ~~((11))~~ (14) Establish and maintain a grievance procedure approved
14 by the commissioner, to provide a reasonable and effective resolution
15 of complaints initiated by enrollees concerning any matter relating to
16 the provision of benefits under the ~~((uniform benefits package))~~
17 minimum list of health services and supplemental benefits, access to
18 health care services, and quality of services. Each certified health
19 plan shall respond to complaints filed with the insurance commissioner
20 within fifteen working days. The insurance commissioner in
21 consultation with the commission shall establish standards for
22 resolution of grievances;

23 ~~((12))~~ (15) Comply with the provisions of chapter 48.30 RCW
24 prohibiting unfair and deceptive acts and practices to the extent such
25 provisions are not specifically modified or superseded by the
26 provisions of chapter 492, Laws of 1993 and be prohibited from offering
27 or supplying incentives that would have the effect of avoiding the
28 requirements of subsection ~~((3))~~ (4) of this section;

29 ~~((13))~~ (16) Have culturally sensitive health promotion programs
30 that include approaches that are specifically effective for persons of
31 color and accommodating to different cultural value systems, gender,
32 and age;

33 ~~((14))~~ (17) Permit every category of health care provider to
34 provide health services or care for conditions included in the
35 ~~((uniform benefits package))~~ minimum list of health services to the
36 extent that:

37 (a) The provision of such health services or care is within the
38 health care providers' permitted scope of practice; and

39 (b) The providers agree to abide by standards related to:

1 (i) Provision, utilization review, and cost containment of health
2 services;

3 (ii) Management and administrative procedures; and

4 (iii) Provision of cost-effective and clinically efficacious health
5 services;

6 (~~(15)~~) (18) Establish the geographic boundaries in which they
7 will obligate themselves to deliver the services required under the
8 (~~uniform benefits package~~) minimum list of health services and
9 include such information in their application for certification, but
10 the commissioner shall review such boundaries and may disapprove, in
11 conformance with guidelines adopted by the commission, those that have
12 been clearly drawn to be exclusionary within a health care catchment
13 area;

14 (~~(16)~~) (19) Annually report the names and addresses of all
15 officers, directors, or trustees of the certified health plan during
16 the preceding year, and the amount of wages, expense reimbursements, or
17 other payments to such individuals;

18 (~~(17)~~) (20) Annually report the number of residents enrolled and
19 terminated during the previous year. Additional information regarding
20 the enrollment and termination pattern for a certified health plan may
21 be required by the commissioner to determine compliance with the open
22 enrollment and free access requirements of chapter 492, Laws of 1993;
23 and

24 (~~(18)~~) (21) Disclose any financial interests held by officers and
25 directors in any facilities associated with or operated by the
26 certified health plan.

27 NEW SECTION. Sec. 6. A new section is added to chapter 43.72 RCW
28 to read as follows:

29 (1) On July 1, 1995, the commission shall file as proposed rules
30 the draft and adopted rules in WAC 245-04-010 through 245-04-240, which
31 establish certified health plan standards as they were submitted to the
32 legislature by the health services commission on January 10, 1995. The
33 commission may modify these rules according to the terms of chapter
34 34.05 RCW, the administrative procedure act, but must adopt them in
35 final form no later than October 1, 1995.

36 (2) On July 1, 1995, the commission shall file as proposed rules
37 the draft rules in WAC 245-04-300 through 245-04-350, which establish
38 certified health plan quality standards as they were submitted to the

1 legislature by the health services commission on January 10, 1995. The
2 commission may modify these rules according to chapter 34.05 RCW, the
3 administrative procedure act, but must adopt the rules in final form no
4 later than October 1, 1995.

5 (3) The legislature does not approve, as of the effective date of
6 this act, the health services commission's proposed uniform benefits
7 package, nor does it approve the proposed medical risk adjustment
8 mechanism under RCW 43.72.040(7) and indefinitely suspends the
9 application of medical risk adjustment mechanisms, and the application
10 of the uniform benefits package description contained in RCW 43.72.130.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.47 RCW
12 to read as follows:

13 The administrator shall expand the schedule of covered basic health
14 services that were available to an enrollee of the basic health plan as
15 of July 1, 1994, to include services of licensed midwives, limited
16 chiropractic care, limited chemical dependency services, limited mental
17 health services, and limited medical rehabilitation. Such expansion
18 shall not increase the actuarially determined average member per month
19 cost, excluding adjustments for inflation and utilization by more than
20 five percent. After the administrator has made the modifications to
21 the basic health plan that are necessary to include these services, the
22 basic health plan may not be further modified in a manner that will
23 increase the average per member per month cost except by an act of law.

24 NEW SECTION. **Sec. 8.** A new section is added to chapter 41.05 RCW
25 to read as follows:

26 The authority shall study and report to the legislature on the
27 feasibility of including long-term care services in a medicare
28 supplemental insurance policy offered according to RCW 41.05.197.

29 NEW SECTION. **Sec. 9.** (1) This chapter shall be known as the
30 medical care savings account act.

31 (2) Medical care savings accounts are authorized in Washington
32 state as options to employers and residents.

33 **Sec. 10.** RCW 43.72.190 and 1993 c 492 s 455 are each amended to
34 read as follows:

1 (1) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
2 1995 (this act) shall preclude insurers, health care service
3 contractors, health maintenance organizations, or certified health
4 plans from insuring, providing, or contracting for benefits not
5 included in the ~~((uniform benefits package or in supplemental~~
6 ~~benefits))~~ minimum list of health services.

7 (2) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
8 1995 (this act) shall restrict the right of an employer to offer, an
9 employee representative to negotiate for, or an individual or employer
10 to purchase ~~((supplemental or additional))~~ any benefits not included in
11 the ~~((uniform benefits package))~~ minimum list of health services.

12 (3) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
13 1995 (this act) shall restrict the right of an employer to offer or
14 provide or an employee representative to negotiate for employer payment
15 ~~((of up to one hundred percent of the premium of the lowest priced~~
16 ~~uniform benefits package available in the geographic area where the~~
17 ~~employer is located))~~ of the entire premium for any health insurance or
18 for employer reimbursement of any point-of-service cost-sharing amounts
19 that may be required under such health insurance.

20 (4) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
21 1995 (this act) shall be construed to affect the collective bargaining
22 rights of employee organizations ~~((to the extent that federal law~~
23 ~~specifically restricts the ability of states to limit collective~~
24 ~~bargaining rights of employee organizations))~~.

25 (5) After July 1, 1999, no property or casualty insurance policy
26 issued in this state may provide first-party coverage for health
27 services to the extent that such services are provided under a uniform
28 benefits package covering the resident to whom such property or
29 casualty insurance policy is issued.

30 NEW SECTION. Sec. 11. A new section is added to chapter 43.70 RCW
31 to read as follows:

32 (1) The identity of a whistleblower who complains, in good faith,
33 to the department of health about the improper quality of care by a
34 health care provider, by a certified health plan, or in a health care
35 facility, as defined in RCW 43.72.010, shall remain confidential. The
36 provisions of RCW 4.24.500 through 4.24.520, providing certain
37 protections to persons who communicate to government agencies, shall
38 apply to complaints filed under this section. The identity of the

1 whistleblower shall remain confidential unless the department
2 determines that the complaint was not made in good faith. An employee
3 who is a whistleblower, as defined in this section, and who as a result
4 of being a whistleblower has been subjected to workplace reprisal or
5 retaliatory action has the remedies provided under chapter 49.60 RCW.

6 (2)(a) "Improper quality of care" means any practice, procedure,
7 action, or failure to act that violates any state law or rule of the
8 applicable state health licensing authority under Title 18 RCW, or
9 chapters 70.41, 70.96A, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, or
10 certified health plan rules under the authority of this act and
11 enforced by the insurance commissioner or the department of health.
12 Each health disciplinary authority as defined in RCW 18.130.040 shall,
13 with consultation and interdisciplinary coordination provided by the
14 state department of health, adopt rules defining accepted standards of
15 practice for their profession that shall further define improper
16 quality of care. Improper quality of care shall not include personnel
17 actions related to employee performance or taken according to
18 established terms and conditions of employment.

19 (b) "Reprisal or retaliatory action" means but is not limited to:
20 Denial of adequate staff to perform duties; frequent staff changes;
21 frequent and undesirable office changes; refusal to assign meaningful
22 work; unwarranted and unsubstantiated report of misconduct pursuant to
23 Title 18 RCW; letters of reprimand or unsatisfactory performance
24 evaluations; demotion; reduction in pay; denial of promotion;
25 suspension; dismissal; denial of employment; and a supervisor or
26 superior encouraging coworkers to behave in a hostile manner toward the
27 whistleblower.

28 (c) "Whistleblower" means a consumer, employee, or health care
29 professional who in good faith reports alleged quality of care concerns
30 to the department of health.

31 (3) Nothing in this section prohibits a health care facility from
32 making any decision exercising its authority to terminate, suspend, or
33 discipline an employee who engages in workplace reprisal or retaliatory
34 action against a whistleblower.

35 (4) The department shall adopt rules to implement this section,
36 including procedures for filing, investigation, and resolution of
37 whistleblower complaints that are integrated with complaint procedures
38 under Title 18 RCW for health professionals and chapter 43.72 RCW for
39 certified health plans.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.70 RCW
2 to read as follows:

3 All health care facilities, certified health plans, and providers
4 must develop and disclose a staffing plan to include professional and
5 nonprofessional staff including direct registered nurse to patient
6 ratios for each treatment setting and shift. This section does not
7 require a certified health plan, health care facility, or health
8 provider to adhere to any particular standard that may not be otherwise
9 provided by law. The department shall set in rule the forms, frequency
10 of disclosure, and posting requirements for such information.

11 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.41 RCW
12 to read as follows:

13 The department of health in consultation with the nursing quality
14 assurance commission under chapter 18.79 RCW may, within funds
15 appropriated specifically for the purpose, study staffing plans for
16 hospitals, including the relationship between staffing ratios and
17 patient care needs. The department shall develop a report with any
18 recommendations it chooses to make to the legislature regarding
19 specific changes in state law regarding these matters.

20 **Sec. 14.** RCW 43.72.070 and 1993 c 492 s 409 are each amended to
21 read as follows:

22 To ensure the highest quality health services at the lowest total
23 cost, the commission shall establish a total quality management system
24 of continuous quality improvement. Such endeavor shall be based upon
25 the recognized quality science for continuous quality improvement. The
26 commission shall impanel a committee composed of persons from the
27 private sector and related sciences who have broad knowledge and
28 successful experiences in continuous quality improvement and total
29 quality management applications. It shall be the responsibility of the
30 committee to develop quality standards for ((a Washington state health
31 services supplier certification process)) certified health plans and
32 recommend such standards, and the process for assuring that plans meet
33 such standards, to the commission for review and adoption. Once
34 adopted, the commission shall establish a schedule, with full
35 compliance no later than ((July 1, 1996)) four years from the date of
36 the plan's first provisional approval by the office of the insurance
37 commissioner to provide the minimum list of health services, whereby

1 all health (~~(service providers and health service facilities)~~) plans
2 shall (~~(be certified prior to providing uniform benefits package~~
3 ~~services))~~ meet the requirements of the commission's quality assurance
4 and improvement rules and be accredited by an approved quality review
5 organization.

6 **Sec. 15.** RCW 48.30.010 and 1985 c 264 s 13 are each amended to
7 read as follows:

8 (1) No person engaged in the business of insurance shall engage in
9 unfair methods of competition or in unfair or deceptive acts or
10 practices in the conduct of such business as such methods, acts, or
11 practices are defined pursuant to subsection (2) of this section.

12 (2) In addition to such unfair methods and unfair or deceptive acts
13 or practices as are expressly defined and prohibited by this code, the
14 commissioner may from time to time by regulation promulgated pursuant
15 to chapter 34.05 RCW, define other methods of competition and other
16 acts and practices in the conduct of such business reasonably found by
17 the commissioner to be unfair or deceptive, which shall include any act
18 or practice that has the effect of changing access to appropriate and
19 effective health services in a manner proscribed by the laws and rules
20 of the state of Washington.

21 (3) No such regulation shall be made effective prior to the
22 expiration of thirty days after the date of the order by which it is
23 promulgated.

24 (4) If the commissioner has cause to believe that any person is
25 violating any such regulation, the commissioner may order such person
26 to cease and desist therefrom. The commissioner shall deliver such
27 order to such person direct or mail it to the person by registered mail
28 with return receipt requested. If the person violates the order after
29 expiration of ten days after the cease and desist order has been
30 received by him or her, he or she may be fined by the commissioner a
31 sum not to exceed two hundred and fifty dollars for each violation
32 committed thereafter.

33 (5) If any such regulation is violated, the commissioner may take
34 such other or additional action as is permitted under the insurance
35 code for violation of a regulation.

36 **Sec. 16.** RCW 48.44.490 and 1993 c 492 s 288 are each amended to
37 read as follows:

1 (1) With respect to all health care service contracts issued or
2 renewed on and after July 1, 1994, except limited health care service
3 contracts as defined in RCW 48.44.035:

4 (a) Contracts shall guarantee continuity of coverage. Such
5 provision, which shall be included in every contract, shall provide
6 that:

7 (i) The contract may be canceled or nonrenewed without the prior
8 written approval of the commissioner only for nonpayment of premiums,
9 for violation of published policies of the contractor that have been
10 approved by the commissioner, for persons who are entitled to become
11 eligible for medicare benefits and fail to subscribe to a medicare
12 supplement plan offered by the contractor, for failure of such
13 subscriber to pay any deductible or copayment amount owed to the
14 contractor and not the provider of health care services, for fraud, or
15 for a material breach of the contract; and

16 (ii) The contract may be canceled or nonrenewed because of a change
17 in the physical or mental condition or health of a covered person only
18 with the prior written approval of the commissioner. Such approval
19 shall be granted only when the contractor has discharged its obligation
20 to continue coverage for such person by obtaining coverage with another
21 insurer, health care service contractor, or health maintenance
22 organization, which coverage is comparable in terms of premiums and
23 benefits as defined by rule of the commissioner.

24 (b) It is an unfair practice for a contractor to modify the
25 coverage provided or rates applying to an in-force contract and to fail
26 to make such modification in all such issued and outstanding contracts.

27 (c) Subject to rules adopted by the commissioner, it is an unfair
28 practice for a health care service contractor to:

29 (i) Cease the sale of a contract form unless it has received prior
30 written authorization from the commissioner and has offered all
31 subscribers covered under such discontinued contract the opportunity to
32 purchase comparable coverage without health screening; or

33 (ii) Engage in a practice that subjects subscribers to rate
34 increases on discontinued contract forms unless such subscribers are
35 offered the opportunity to purchase comparable coverage without health
36 screening.

37 (2) The health care service contractor may limit an offer of
38 comparable coverage without health screening to a period not less than
39 thirty days from the date the offer is first made.

1 (3) In addition to such unfair methods and unfair or deceptive acts
2 or practices as are expressly defined and prohibited by this code, the
3 commissioner may from time to time by rule adopted pursuant to chapter
4 34.05 RCW, define other methods of competition and other acts and
5 practices in the conduct of such business reasonably found by the
6 commissioner to be unfair or deceptive, which shall include any act or
7 practice that has the effect of changing access to appropriate and
8 effective health services in a manner proscribed by the laws and rules
9 of the state of Washington.

10 **Sec. 17.** RCW 48.46.560 and 1993 c 492 s 289 are each amended to
11 read as follows:

12 (1) With respect to all health maintenance agreements issued or
13 renewed on and after July 1, 1994, and in addition to the restrictions
14 and limitations contained in RCW 48.46.060(4):

15 (a) Agreements shall guarantee continuity of coverage. Such
16 provision, which shall be included in every agreement, shall provide
17 that the agreement may be canceled or nonrenewed because of a change in
18 the physical or mental condition or health of a covered person only
19 with the prior written approval of the commissioner. Such approval
20 shall be granted only when the organization has discharged its
21 obligation to continue coverage for such person by obtaining coverage
22 with another insurer, health care service contractor, or health
23 maintenance organization, which coverage is comparable in terms of
24 premiums and benefits as defined by rule of the commissioner.

25 (b) It is an unfair practice for an organization to modify the
26 coverage provided or rates applying to an in-force agreement and to
27 fail to make such modification in all such issued and outstanding
28 agreements.

29 (c) Subject to rules adopted by the commissioner, it is an unfair
30 practice for a health maintenance organization to:

31 (i) Cease the sale of an agreement form unless it has received
32 prior written authorization from the commissioner and has offered all
33 enrollees covered under such discontinued agreement the opportunity to
34 purchase comparable coverage without health screening; or

35 (ii) Engage in a practice that subjects enrollees to rate increases
36 on discontinued agreement forms unless such enrollees are offered the
37 opportunity to purchase comparable coverage without health screening.

1 (2) The health maintenance organization may limit an offer of
2 comparable coverage without health screening to a period not less than
3 thirty days from the date the offer is first made.

4 (3) In addition to such unfair methods and unfair or deceptive acts
5 or practices as are expressly defined and prohibited by this code, the
6 commissioner may from time to time by rule adopted pursuant to chapter
7 34.05 RCW, define other methods of competition and other acts and
8 practices in the conduct of such business reasonably found by the
9 commissioner to be unfair or deceptive, which shall include any act or
10 practice that has the effect of changing access to appropriate and
11 effective health services in a manner proscribed by the laws and rules
12 of the state of Washington.

13 NEW SECTION. Sec. 18. A new section is added to Title 48 RCW to
14 read as follows:

15 The legislature recognizes that every individual possesses a
16 fundamental right to exercise their religious beliefs and conscience.
17 The legislature further recognizes that in developing public policy,
18 conflicting religious and moral beliefs must be respected. Therefore,
19 while recognizing the right of conscientious objection to participating
20 in specific health services, the state shall also recognize the right
21 of individuals enrolled with a certified health plan to receive the
22 full range of services covered under the minimum list of health
23 services.

24 NEW SECTION. Sec. 19. A new section is added to Title 48 RCW to
25 read as follows:

26 (1) No individual health care provider, health care facility, or
27 religiously sponsored certified health plan may be required by law or
28 contract in any circumstances to directly participate in the provision
29 of or payment for a specific service in this minimum list of health
30 services if they object to so doing for reason of conscience or
31 religion. No person may be discriminated against in employment or
32 professional privileges because of such objection.

33 (2) The provisions of this section are not intended to result in an
34 enrollee being denied timely access to any service included in the
35 minimum list of health services. Each certified health plan shall:

36 (a) Provide written notice to enrollees, upon enrollment with the
37 plan and upon enrollee request thereafter, listing, by provider,

1 services that any provider refuses to perform for reason of conscience
2 or religion;

3 (b) Develop written information describing how an enrollee may
4 directly access, in an expeditious manner, services that the provider
5 refuses to perform; and

6 (c) Ensure that enrollees refused services under this section have
7 prompt access to the information developed pursuant to (b) of this
8 subsection.

9 (3) The health services commission shall adopt rules to implement
10 this section and establish a mechanism to ensure enrollees timely
11 access to the minimum list of health services and to assure prompt
12 payment to service providers.

13 NEW SECTION. **Sec. 20.** A new section is added to Title 48 RCW to
14 read as follows:

15 (1) No individual or organization with a religious or moral tenet
16 opposed to a specific service on the minimum list of health services
17 may be required to purchase coverage for that service or services if
18 the individual or organization objects to doing so for reason of
19 conscience or religion.

20 (2) The provisions of this section shall not result in an enrollee
21 being denied coverage of, and timely access to, any service or services
22 excluded from their benefits package as a result of their employer's or
23 another individual's exercise of the conscience clause outlined in
24 subsection (1) of this section.

25 (3) The health services commission shall define the process through
26 which certified health plans may offer the minimum list of health
27 services to individuals and organizations identified in subsections (1)
28 and (2) of this section in accordance to the provisions of section
29 19(3) of this act.

30 NEW SECTION. **Sec. 21.** A new section is added to chapter 70.47 RCW
31 to read as follows:

32 Insurance brokers and agents who hold the proper license pursuant
33 to chapter 43.17 RCW shall be entitled to sell the basic health plan
34 and shall receive from the health care authority a three percent
35 commission for each individual sale of the basic health plan to anyone
36 not previously signed up and a one percent commission for each group
37 sale of the basic health plan. No commission shall be provided upon a

1 renewal. Commissions shall be determined based on the estimated annual
2 cost of the basic health plan. The health care authority shall use
3 moneys in the basic health plan trust account for this purpose.

4 NEW SECTION. **Sec. 22.** A new section is added to chapter 43.70 RCW
5 to read as follows:

6 The legislature finds that assuring adequate access to quality
7 health services in rural and medically underserved areas requires
8 special efforts to recruit and train health service providers and the
9 development of health care systems in these areas. The state
10 department of health has provided valuable coordination and technical
11 assistance in these efforts through its office of rural health. The
12 University of Washington's rural and underserved opportunities program
13 and its community health systems development program have voluntarily
14 initiated various creative efforts, which have made solid progress in
15 meeting these essential state needs, despite the lack of explicit
16 financial support from state government for these purposes. The
17 legislature recognizes that increased price competition in health
18 services delivery may jeopardize the University of Washington's
19 laudatory efforts in these areas, and in other teaching and research
20 endeavors that are critical to promoting universal access to quality
21 health services. Therefore, the department of health is authorized to
22 ensure the continuation of these efforts as well as their coordination
23 in the context of overall health systems development, within funds
24 specially appropriated for this purpose.

25 There is appropriated to the department of health from the health
26 services account, the amount of five hundred thousand dollars for the
27 1995-1997 biennium to contract with the University of Washington to
28 support community health systems development services and rural and
29 underserved health provider opportunities in communities targeted by
30 the department of health in consultation with selected local health
31 jurisdictions and hospital districts in rural and medically underserved
32 areas. This contract may contain no more than a ten percent indirect
33 cost, overhead, or administrative allocation to the University of
34 Washington. No less than fifty percent of the funds provided in this
35 section must support expanded efforts in these areas.

36 NEW SECTION. **Sec. 23.** The sum of dollars, or as much
37 thereof as may be necessary, is appropriated for the biennium ending

1 June 30, 1997, from the health services account to the health care
2 authority to expand basic health plan subsidized enrollment to a total
3 of at least two hundred thousand adults, including at least one hundred
4 thousand employer-sponsored adults with income below two hundred
5 percent of the federal poverty level.

6 NEW SECTION. **Sec. 24.** In addition to other moneys appropriated to
7 the department of social and health services for medical assistance,
8 the sum of dollars, or as much thereof as may be necessary,
9 is appropriated for the biennium ending June 30, 1997, from the health
10 services account to the department of social and health services, to
11 serve an additional one hundred twenty-five thousand children.

12 NEW SECTION. **Sec. 25.** The health care authority, the office of
13 financial management, the department of social and health services, and
14 the state treasurer shall together monitor the enrollee level in the
15 basic health plan and medicaid and adjust the funding levels by
16 transfers of funds between the basic health plan and medicaid and
17 adjust the funding levels by transfers of funds between the basic
18 health plan subscription accounts and the medicaid dollars appropriated
19 in sections 23 and 24 of this act to maximize enrollment.

20 NEW SECTION. **Sec. 26.** A new section is added to chapter 43.19 RCW
21 to read as follows:

22 Any person, firm, or organization that makes any bid to provide any
23 goods or services to any state agency shall be granted a preference
24 over other bidders if at the time the bid is submitted the vendor
25 provides the minimum list of health services as defined in chapter
26 43.72 RCW to ninety-five percent of their employees and pays at least
27 fifty percent of the related premium. The preference provided under
28 this section shall be equal to ten percent of the total points awarded
29 in the bid process. For purposes of this section employees of under
30 three months are not included in the computation.

31 NEW SECTION. **Sec. 27.** A new section is added to Title 51 RCW to
32 read as follows:

33 The department of labor and industries and the health care
34 authority shall develop an easy employer payment method for the basic
35 health plan under which an employer can make his or her basic health

1 plan payment on the same forms and in the same check he or she uses to
2 make workers' compensation payments.

3 **Sec. 28.** RCW 18.130.320 and 1993 c 492 s 408 are each amended to
4 read as follows:

5 The Washington health services commission established by RCW
6 43.72.020, in consultation with the secretary of health, and the health
7 care disciplinary authorities under RCW 18.130.040(2)(b), shall
8 establish standards and monetary penalties in rule prohibiting provider
9 investments and referrals that present a conflict of interest resulting
10 from inappropriate financial gain for the provider or his or her
11 immediate family. These standards are not intended to inhibit the
12 efficient operation of managed health care systems or certified health
13 plans. (~~The commission shall report to the health policy committees
14 of the senate and house of representatives by December 1, 1994, on the
15 development of the standards and any recommended statutory changes
16 necessary to implement the standards.~~)

17 NEW SECTION. **Sec. 29.** The following acts or parts of acts are
18 each repealed:

- 19 (1) RCW 43.72.200 and 1993 c 492 s 456;
- 20 (2) RCW 43.72.220 and 1993 c 494 s 3 & 1993 c 492 s 464;
- 21 (3) RCW 43.72.240 and 1993 c 494 s 4 & 1993 c 492 s 466;
- 22 (4) RCW 43.72.810 and 1993 c 492 s 474;
- 23 (5) RCW 43.72.210 and 1993 c 492 s 463;
- 24 (6) RCW 43.72.120 and 1993 c 492 s 430;
- 25 (7) RCW 43.72.090 and 1995 c 2 s 1 & 1993 c 492 s 427;
- 26 (8) RCW 48.43.010 and 1993 c 492 s 432;
- 27 (9) RCW 48.43.020 and 1993 c 492 s 433;
- 28 (10) RCW 48.43.030 and 1993 c 492 s 434;
- 29 (11) RCW 48.43.040 and 1993 c 492 s 435;
- 30 (12) RCW 48.43.050 and 1993 c 492 s 436;
- 31 (13) RCW 48.43.060 and 1993 c 492 s 437;
- 32 (14) RCW 48.43.070 and 1993 c 492 s 438;
- 33 (15) RCW 48.43.080 and 1993 c 492 s 439;
- 34 (16) RCW 48.43.090 and 1993 c 492 s 440;
- 35 (17) RCW 48.43.100 and 1993 c 492 s 441;
- 36 (18) RCW 48.43.110 and 1993 c 492 s 442;
- 37 (19) RCW 48.43.120 and 1993 c 492 s 443;

- 1 (20) RCW 48.43.130 and 1993 c 492 s 444;
2 (21) RCW 48.43.150 and 1993 c 492 s 446;
3 (22) RCW 43.72.060 and 1994 c 4 s 2 & 1993 c 492 s 404;
4 (23) RCW 43.72.140 and 1993 c 492 s 450; and
5 (24) RCW 43.72.150 and 1993 c 492 s 451.

6 NEW SECTION. **Sec. 30.** Section 9 of this act shall constitute a
7 new chapter in Title 48 RCW.

8 NEW SECTION. **Sec. 31.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and shall take
11 effect immediately."

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13 By Committee on Health & Long-Term Care

14
15 On page 1, line 1 of the title, after "improvement;" strike the
16 remainder of the title and insert "amending RCW 43.72.010, 43.72.040,
17 43.72.100, 43.72.190, 43.72.070, 48.30.010, 48.44.490, 48.46.560, and
18 18.130.320; adding new sections to chapter 43.72 RCW; adding new
19 sections to chapter 70.47 RCW; adding a new section to chapter 41.05
20 RCW; adding new sections to chapter 43.70 RCW; adding a new section to
21 chapter 70.41 RCW; adding new sections to Title 48 RCW; adding a new
22 section to chapter 43.19 RCW; adding a new section to Title 51 RCW;
23 adding a new chapter to Title 48 RCW; creating new sections; repealing
24 RCW 43.72.200, 43.72.220, 43.72.240, 43.72.810, 43.72.210, 43.72.120,
25 43.72.090, 48.43.010, 48.43.020, 48.43.030, 48.43.040, 48.43.050,
26 48.43.060, 48.43.070, 48.43.080, 48.43.090, 48.43.100, 48.43.110,
27 48.43.120, 48.43.130, 48.43.150, 43.72.060, 43.72.140, and 43.72.150;
28 prescribing penalties; making appropriations; and declaring an
29 emergency."

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