
SUBSTITUTE SENATE BILL 5935 - CC

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on (originally sponsored by Senators Quigley, Wojahn, Franklin, C. Anderson, Fairley, Gaspard, Haugen, Snyder, Pelz, Spanel, Sheldon, Loveland, Fraser, Kohl, Hargrove, McAuliffe, Prentice, Heavey, Drew, Rasmussen, Bauer, Rinehart, Sutherland, Smith, Owen and Winsley)

Read first time 03/01/95.

1 AN ACT Relating to consumer protection in the purchase of health
2 care; amending RCW 43.72.010, 43.72.040, 43.72.100, 43.72.190,
3 43.72.070, 48.30.010, 48.44.490, 48.46.560, and 18.130.320; adding new
4 sections to chapter 43.72 RCW; adding new sections to chapter 70.47
5 RCW; adding a new section to chapter 41.05 RCW; adding new sections to
6 chapter 43.70 RCW; adding a new section to chapter 70.41 RCW; adding
7 new sections to Title 48 RCW; adding a new section to chapter 43.19
8 RCW; adding a new section to Title 51 RCW; adding a new chapter to
9 Title 48 RCW; creating new sections; repealing RCW 43.72.200,
10 43.72.220, 43.72.240, 43.72.810, 43.72.210, 43.72.120, 43.72.090,
11 48.43.010, 48.43.020, 48.43.030, 48.43.040, 48.43.050, 48.43.060,
12 48.43.070, 48.43.080, 48.43.090, 48.43.100, 48.43.110, 48.43.120,
13 48.43.130, 48.43.150, 43.72.060, 43.72.140, and 43.72.150; prescribing
14 penalties; making appropriations; and declaring an emergency.

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

16 **PROTECTION OF CONSUMER CHOICE AND QUALITY HEALTH CARE**

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

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

15 (2) Eliminate preexisting condition exclusions in insurance,
16 prevent cancellation of insurance because of sickness, and allow people
17 to change jobs without losing their health care coverage. The
18 legislature will achieve this by: Requiring insurers to renew policies
19 as long as the premiums are duly paid; prohibiting insurers from
20 denying a person insurance coverage because of a preexisting condition;
21 and allowing the insurance commissioner to assess penalties for
22 breaches of these provisions of law;

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

27 (4) Protect individual's, family's, and businesses' ability to
28 maintain their health insurance and to allow those presently uninsured
29 to purchase health insurance by making health insurance more
30 affordable. The legislature will achieve this by allowing insurers to
31 give limited discounts based on age and healthy lifestyle factors;
32 allowing greater flexibility in the use of deductibles and coinsurance;
33 by preventing self-insured companies from initially profiting from a
34 healthier and less costly employee insurance pool and later cost-
35 shifting if their employee insurance pool becomes less healthy and more
36 costly; prohibiting insurers from cost-shifting from big business to
37 small business and individuals in the sale of supplemental benefits;
38 and permitting cooperative health care purchasing groups; and

1 (5) Advance the fundamental goal that all Washingtonians should
2 have access to health insurance and intends to achieve universal access
3 through incentives rather than an employer mandate. The legislature
4 intends to do this by: Expanding the existing basic health plan to two
5 hundred thousand enrollees; expanding the availability of medicaid to
6 an additional one hundred twenty-five thousand children; giving
7 preference in state government contracts to employers who provide
8 health insurance to their employees; allowing employers to sign up for
9 basic health plan health insurance through their periodic filings with
10 the department of labor and industries; and eliminating the employer
11 mandate.

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

14 In this chapter and chapter 43.70 RCW, unless the context otherwise
15 requires:

16 (1) "Certified health plan" or "plan" means a disability insurer
17 regulated under chapter 48.20 or 48.21 RCW, a health care service
18 contractor as defined in RCW 48.44.010, or a health maintenance
19 organization as defined in RCW 48.46.020(~~(, or an entity certified in~~
20 ~~accordance with RCW 48.43.020 through 48.43.120)~~).

21 (2) "Chair" means the presiding officer of the Washington health
22 services commission.

23 (3) "Commission" or "health services commission" means the
24 Washington health services commission.

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

26 (a) With respect to the minimum list of health services means the
27 rating method used to establish the premium for the ((uniform benefits
28 package)) minimum list of health services adjusted to reflect
29 actuarially demonstrated differences in utilization or cost
30 attributable to geographic region, wellness factors, age, and family
31 size as determined by the commission.

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

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

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

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

11 (v) Wellness factors include activities, such as smoking cessation,
12 injury and accident prevention, reduction of alcohol or other drug
13 misuse, appropriate weight reduction, exercise, automobile and
14 motorcycle safety, blood cholesterol reduction, blood sugar control,
15 and nutrition education for the purpose of improving enrollee health
16 status and reducing health service costs.

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

20 (5) "Continuous quality improvement and total quality management"
21 means a continuous process to improve health services while reducing
22 costs.

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

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

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

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

38 Each certified health plan, other than health maintenance
39 organizations, will offer the minimum list of health services with at

1 least two of the following set of deductible options, revised
2 biannually to account for inflation using the consumer price index and
3 rounded to the nearest whole fifty dollars:

4 (a) Zero deductible;

5 (b) Two hundred fifty dollars deductible for individuals, seven
6 hundred fifty dollars deductible for families;

7 (c) Five hundred dollars deductible for individuals, one thousand
8 dollars deductible for families;

9 (d) One thousand dollars deductible for individuals, two thousand
10 dollars deductible for families.

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

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

16 (11) "Health care facility" or "facility" means hospices licensed
17 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,
18 rural health care facilities as defined in RCW 70.175.020, psychiatric
19 hospitals licensed under chapter 71.12 RCW, nursing homes licensed
20 under chapter 18.51 RCW, community mental health centers licensed under
21 chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed
22 under chapter 70.41 RCW, ambulatory diagnostic, treatment or surgical
23 facilities licensed under chapter 70.41 RCW, drug and alcohol treatment
24 facilities licensed under chapter 70.96A RCW, and home health agencies
25 licensed under chapter 70.127 RCW, and includes such facilities if
26 owned and operated by a political subdivision or instrumentality of the
27 state and such other facilities as required by federal law and
28 implementing regulations, but does not include Christian Science
29 sanatoriums operated, listed, or certified by the First Church of
30 Christ Scientist, Boston, Massachusetts.

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

32 (a) A person regulated under Title 18 RCW ((and)) or chapter 70.127
33 RCW, to practice health or health-related services or otherwise
34 practicing health care services in this state consistent with state
35 law; or

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

38 (13) "Health insurance purchasing cooperative" or "cooperative"
39 means a member-owned and governed nonprofit organization certified in

1 accordance with RCW 43.72.080 and 48.43.160. Any group of individuals
2 may form a cooperative health care purchasing group in addition to and
3 separate from the authority of health insurance purchasing cooperatives
4 certified in accordance with RCW 43.72.080 and 48.43.160.

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

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

17 (16) "Managed care" means an integrated system of insurance,
18 financing, and health services delivery functions that: (a) Assumes
19 financial risk for delivery of health services and uses a defined
20 network of providers; ~~((or))~~ (b) assumes financial risk for delivery of
21 health services and promotes the efficient delivery of health services
22 through provider assumption of some financial risk including
23 capitation, prospective payment, resource-based relative value scales,
24 fee schedules, or similar method of limiting payments to health care
25 providers; or (c) assumes financial risk for delivery of health
26 services and includes such cost-containment features as second surgical
27 opinions, precertification authorization, utilization review, or high
28 cost case management.

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

35 (18) "Minimum list of health services," "minimum health services
36 list," or "minimum health services" means that schedule of covered
37 health services, including the description of how those benefits are to
38 be administered, that are required to be delivered to an enrollee under
39 the basic health plan, as revised from time to time.

1 (~~((18))~~) (19) "Persons of color" means Asians/Pacific Islanders,
2 African, Hispanic, and Native Americans.

3 (~~((19))~~) (20) "Premium" means all sums charged, received, or
4 deposited by a certified health plan as consideration for (~~((a uniform~~
5 ~~benefits package))~~) the minimum list of health services or the
6 continuance of (~~((a uniform benefits package))~~) the minimum list of
7 health services. Any assessment, or any "membership," "policy,"
8 "contract," "service," or similar fee or charge made by the certified
9 health plan in consideration for the (~~((uniform benefits package))~~)
10 minimum list of health services is deemed part of the premium.
11 "Premium" shall not include amounts paid as enrollee point of service
12 cost-sharing.

13 (~~((20))~~) (21) "Qualified employee" means an employee who is
14 employed at least thirty hours during a week or one hundred twenty
15 hours during a calendar month.

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

22 (22) "Supplemental benefits" means those appropriate and effective
23 health services that are not included in the (~~((uniform benefits~~
24 ~~package))~~) minimum list of health services or that expand the type or
25 level of health services available under the (~~((uniform benefits~~
26 ~~package))~~) minimum list of health services and that are offered to all
27 residents in accordance with the provisions of RCW 43.72.160 and
28 43.72.170.

29 (23) "Technology" means the drugs, devices, equipment, and medical
30 or surgical procedures used in the delivery of health services, and the
31 organizational or supportive systems within which such services are
32 provided. It also means sophisticated and complicated machinery
33 developed as a result of ongoing research in the basic biological and
34 physical sciences, clinical medicine, electronics, and computer
35 sciences, as well as specialized professionals, medical equipment,
36 procedures, and chemical formulations used for both diagnostic and
37 therapeutic purposes.

38 (24) "Uniform benefits package" or "package" means (~~((those~~
39 ~~appropriate and effective health services, defined by the commission~~

1 under RCW 43.72.130, that must be offered to all Washington residents
2 through certified health plans.)) the "minimum list of health
3 services." References to "uniform benefits package" after the
4 effective date of this act, throughout the Revised Code of Washington
5 shall be construed to mean "minimum list of health services."

6 (25) "Washington resident" or "resident" means a person who intends
7 to reside in the state permanently or indefinitely and who did not move
8 to Washington for the primary purpose of securing health services under
9 ((RCW 43.72.090 through 43.72.240, 43.72.300, 43.72.310, 43.72.800))
10 this chapter, and chapters 48.43 and 48.85 RCW. "Washington resident"
11 also includes people and their accompanying family members who are
12 residing in the state for the purpose of engaging in employment for at
13 least one month, who did not enter the state for the primary purpose of
14 obtaining health services. The confinement of a person in a nursing
15 home, hospital, or other medical institution in the state shall not by
16 itself be sufficient to qualify such person as a resident.

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

19 The commission has the following powers and duties:

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

24 (2)) Endeavor to ensure that all residents of Washington state
25 have access to appropriate, timely, confidential, and effective health
26 services, and monitor the degree of access to such services. If the
27 commission finds that individuals or populations lack access to
28 certified health plan services, the commission shall:

29 (a) Authorize appropriate state agencies, local health departments,
30 community or migrant health clinics, public hospital districts, or
31 other nonprofit health service entities to take actions necessary to
32 assure such access. This includes authority to contract for or
33 directly deliver services described within the ((uniform benefits
34 package)) minimum list of health services to special populations; or

35 (b) Notify appropriate certified health plans and the insurance
36 commissioner of such findings. The commission shall adopt by rule
37 standards by which the insurance commissioner may, in such event,
38 require certified health plans in closest proximity to such individuals

1 and populations to extend their catchment areas to those individuals
2 and populations and offer them enrollment.

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

9 ~~((4))~~ (3) Establish and modify as necessary, in consultation with
10 the state board of health and the department of health, and in
11 coordination with the planning process set forth in RCW 43.70.520, a
12 uniform set of health services ~~((based on the recommendations of the~~
13 ~~health care cost control and access commission established under House~~
14 ~~Concurrent Resolution No. 4443 adopted by the legislature in 1990.~~

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

20 ~~((6)(a))~~ (4) Establish for each year a community-rated maximum
21 premium for the ~~((uniform benefits package))~~ minimum list of health
22 services, adjusted for enrollee cost-sharing, that shall operate to
23 control overall health care costs. The maximum premium cost of the
24 ~~((uniform benefits package))~~ minimum list of health services in the
25 base year 1995 shall be established upon an actuarial determination of
26 the costs of providing the ~~((uniform benefits package))~~ minimum list of
27 health services and such other cost impacts as may be deemed relevant
28 by the commission. Beginning in 1996, the growth rate of the premium
29 cost of the ~~((uniform benefits package))~~ minimum list of health
30 services for each certified health plan shall be allowed to increase by
31 a rate no greater than the average growth rate in the cost of the
32 package between 1990 and 1993 as actuarially determined, reduced by two
33 percentage points per year until the growth rate is no greater than the
34 five-year rolling average of growth in Washington per capita personal
35 income, as determined by the office of financial management.

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

1 The commission may develop and recommend a rate for employees that
2 provides nominal, if any, variance between the rate for individual
3 employees and employees with dependents to minimize any economic
4 incentive to an employer to discriminate between prospective employees
5 based upon whether or not they have dependents for whom coverage would
6 be required.

7 (c) If the commission adds or deletes services or benefits to the
8 uniform benefits package in subsequent years, it may increase or
9 decrease the maximum premium to reflect the actual cost experience of
10 a broad sample of providers of that service in the state, considering
11 the factors enumerated in (a) of this subsection and adjusted
12 actuarially. The addition of services or benefits shall not result in
13 a redetermination of the entire cost of the uniform benefits package.

14 (d) The level of state expenditures for the uniform benefits
15 package shall be limited to the appropriation of funds specifically for
16 this purpose.

17 (7) Determine the need for medical risk adjustment mechanisms to
18 minimize financial incentives for certified health plans to enroll
19 individuals who present lower health risks and avoid enrolling
20 individuals who present higher health risks, and to minimize financial
21 incentives for employer hiring practices that discriminate against
22 individuals who present higher health risks. In the design of medical
23 risk distribution mechanisms under this subsection, the commission
24 shall (a) balance the benefits of price competition with the need to
25 protect certified health plans from any unsustainable negative effects
26 of adverse selection; (b) consider the development of a system that
27 creates a risk profile of each certified health plan's enrollee
28 population that does not create disincentives for a plan to control
29 benefit utilization, that requires contributions from plans that enjoy
30 a low-risk enrollee population to plans that have a high-risk enrollee
31 population, and that does not permit an adjustment of the premium
32 charged for the uniform benefits package or supplemental coverage based
33 upon either receipt or contribution of assessments; and (c) consider
34 whether registered employer health plans should be included in any
35 medical risk adjustment mechanism. Proposed medical risk adjustment
36 mechanisms shall be submitted to the legislature as provided in RCW
37 43.72.180.

1 ~~(8))~~ (5) Design a mechanism to assure minors have access to
2 confidential health care services as currently provided in RCW
3 70.24.110 and 71.34.030.

4 ~~((9))~~ (6) Monitor the actual growth in total annual health
5 services costs.

6 ~~((10))~~ (7) Monitor the increased application of technology as
7 required by chapter 492, Laws of 1993 and take necessary action to
8 ensure that such application is made in a cost-effective and efficient
9 manner and consistent with existing laws that protect individual
10 privacy.

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

27 ~~((12))~~ (9) Establish maximum enrollee financial participation
28 levels. The levels shall be related to enrollee household income.

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

32 ~~(14))~~ (10) For health services provided under the ~~((uniform~~
33 ~~benefits package))~~ minimum list of health services and supplemental
34 benefits, adopt standards for enrollment, and standardized billing and
35 claims processing forms. The standards shall ensure that these
36 procedures minimize administrative burdens on health care providers,
37 health care facilities, certified health plans, and consumers. Subject
38 to federal approval or phase-in schedules whenever necessary or

1 appropriate, the standards also shall apply to state-purchased health
2 services, as defined in RCW 41.05.011.

3 ~~((15))~~ (11) Propose that certified health plans adopt certain
4 practice indicators or risk management protocols for quality assurance,
5 utilization review, or provider payment. The commission may consider
6 indicators or protocols recommended according to RCW 43.70.500 for
7 these purposes.

8 ~~((16))~~ (12) Propose other guidelines to certified health plans
9 for utilization management, use of technology and methods of payment,
10 such as diagnosis-related groups and a resource-based relative value
11 scale. Such guidelines shall be voluntary and shall be designed to
12 promote improved management of care, and provide incentives for
13 improved efficiency and effectiveness within the delivery system.

14 ~~((17))~~ (13) Adopt standards and oversee and develop policy for
15 personal health data and information system as provided in chapter
16 70.170 RCW.

17 ~~((18))~~ (14) Adopt standards that prevent conflict of interest by
18 health care providers as provided in RCW 18.130.320.

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

23 ~~((20))~~ (16) Evaluate and monitor the extent to which racial and
24 ethnic minorities have access to and receive health services within the
25 state, and develop strategies to address barriers to access.

26 ~~((21))~~ (17) Develop standards for the certification process to
27 certify health plans and employer health plans to provide the ~~((uniform
28 benefits package))~~ minimum list of health services, according to the
29 provisions for certified health plans and registered employer health
30 plans under chapter 492, Laws of 1993.

31 ~~((22) Develop rules for implementation of individual and employer
32 participation under RCW 43.72.210 and 43.72.220 specifically applicable
33 to persons who work in this state but do not live in the state or
34 persons who live in this state but work outside of the state. The
35 rules shall be designed so that these persons receive coverage and
36 financial requirements that are comparable to that received by persons
37 who both live and work in the state.~~

38 ~~(23) After receiving advice from the health services effectiveness
39 committee, adopt rules that must be used by certified health plans,~~

1 disability insurers, health care service contractors, and health
2 maintenance organizations to determine whether a procedure, treatment,
3 drug, or other health service is no longer experimental or
4 investigative.

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

7 ~~(25) Develop recommendations to the legislature as to whether state~~
8 ~~and school district employees, on whose behalf health benefits are or~~
9 ~~will be purchased by the health care authority pursuant to chapter~~
10 ~~41.05 RCW, should have the option to purchase health benefits through~~
11 ~~health insurance purchasing cooperatives on and after July 1, 1997. In~~
12 ~~developing its recommendations, the commission shall consider:~~

13 ~~(a) The impact of state or school district employees purchasing~~
14 ~~through health insurance purchasing cooperatives on the ability of the~~
15 ~~state to control its health care costs; and~~

16 ~~(b) Whether state or school district employees purchasing through~~
17 ~~health insurance purchasing cooperatives will result in inequities in~~
18 ~~health benefits between or within groups of state and school district~~
19 ~~employees.~~

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

23 ~~(27) Evaluate the extent to which Taft Hartley health care trusts~~
24 ~~provide benefits to certain individuals in the state; review the~~
25 ~~federal laws under which these trusts are organized; and make~~
26 ~~appropriate recommendations to the governor and the legislature on or~~
27 ~~before December 1, 1994, as to whether these trusts should be brought~~
28 ~~under the provisions of chapter 492, Laws of 1993 when it is fully~~
29 ~~implemented, and if the commission recommends inclusion of the trusts,~~
30 ~~how to implement such inclusion.~~

31 ~~(28))) (18) Evaluate whether Washington is experiencing a higher~~
32 ~~percentage in in-migration of residents from other states and~~
33 ~~territories than would be expected by normal trends as a result of the~~
34 ~~availability of unsubsidized and subsidized health care benefits for~~
35 ~~all residents and report to the governor and the legislature their~~
36 ~~findings.~~

37 ~~((29) In developing the uniform benefits package and other~~
38 ~~standards pursuant to this section, consider the likelihood of the~~

1 ~~establishment of a national health services plan adopted by the federal~~
2 ~~government and its implications.~~

3 ~~(30))~~ (19) Evaluate the effect of reforms under chapter 492, Laws
4 of 1993 on access to care and economic development in rural areas.

5 (20) Periodically make recommendations to the appropriate
6 committees of the legislature and the governor regarding the minimum
7 list of health services.

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

12 (22) Conduct a study to identify the number of children with
13 special health care needs and the cost of providing their health care.
14 Children with special health care needs may include children who have
15 multiple diagnoses including birth defects, congenital heart defects,
16 cancer, kidney disease, respiratory, metabolic and neurological
17 problems, diabetes, sickle cell disease, HIV infection, rheumatological
18 disorders, and posttraumatic injuries, any of which may require care
19 for longer than a year. The commission shall make recommendations on
20 an optimal system for managing health care services to children with
21 special needs and report back to the legislature on their findings by
22 January 1, 1996.

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

27 (24) Review rules prepared by the insurance commissioner, health
28 care authority, and department of health, and make recommendations to
29 them where appropriate to facilitate consistency with the policies of
30 this act.

31 To the extent that the exercise of any of the powers and duties
32 specified in this section may be inconsistent with the powers and
33 duties of other state agencies, offices, or commissions, the authority
34 of the commission shall supersede that of such other state agency,
35 office, or commission, except in matters of personal health data, where
36 the commission shall have primary data system policy-making authority
37 and the department of health shall have primary responsibility for the
38 maintenance and routine operation of personal health data systems.

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

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

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

10 (3) Any certified health plan that submits a letter to the
11 insurance commissioner stating their intent to offer the minimum list
12 of health services, and that is determined by the commissioner to
13 contain such documentation as may be required in rule, is deemed
14 provisionally approved to offer the minimum list of health services.
15 This provisional approval is valid for a length of time, to be
16 determined by the commissioner, of no more than two years.

17 (4) To receive full approval to offer the minimum list of health
18 services, prior to the expiration of the period of provisional approval
19 under subsection (3) of this section, the certified health plan must
20 demonstrate to the insurance commissioner that the certified health
21 plan complies with WAC 245-04-050, or the certified health plan will
22 lose their license as a health maintenance organization, health care
23 service contractor, or disability insurer.

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

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

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

34 A certified health plan shall:

35 (1) Provide the benefits included in the ((uniform benefits
36 package)) minimum list of health services to enrolled Washington
37 residents for a ((prepaid per capita)) community-rated premium not to
38 exceed the maximum premium established by the commission and provide

1 such benefits through managed care in accordance with rules adopted by
2 the commission: PROVIDED, That certified health plans shall not be
3 required to sell the minimum list of health services at the "community
4 rate" to any individual who is at the time of proposed enrollment in
5 the certified health plan employed by a self-insured employer, or to
6 any employer who was self-insured after December 31, 1995: PROVIDED
7 FURTHER, That nothing herein shall permit a certified health plan to
8 sell the minimum list of services at less than the community rate;

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

13 (3) Except for a health maintenance organization licensed under
14 chapter 48.46 RCW, have available for purchase the minimum list of
15 health services in at least one plan that provides direct enrollee
16 access to any health provider eligible to receive payment under that
17 plan. This plan may encourage, but not require, its enrollees to use
18 the most cost-effective providers through variable reimbursement rates.
19 However, in no instances shall the patient be liable for any balance
20 billing by the provider beyond the normal copayment, or coinsurance.
21 Within this plan, the certified health plan must permit every health
22 care provider willing and able to meet the terms and conditions of the
23 plan to provide health services or care for conditions included in the
24 minimum list of health services to the extent that:

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

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

29 (i) Provision, utilization review, and cost-containment of health
30 services;

31 (ii) Management and administrative procedures; and

32 (iii) Provision of cost-effective and clinically efficacious health
33 services;

34 (4) Accept for enrollment any state resident within the plan's
35 service area and provide or assure the provision of all services within
36 the (~~uniform benefits package~~) minimum list of health services and
37 offer supplemental benefits regardless of age, sex, family structure,
38 ethnicity, race, health condition, geographic location, employment
39 status, socioeconomic status, other condition or situation, or the

1 provisions of RCW 49.60.174(2). The insurance commissioner may grant
2 a temporary exemption from this subsection, if, upon application by a
3 certified health plan, the commissioner finds that the clinical,
4 financial, or administrative capacity to serve existing enrollees will
5 be impaired if a certified health plan is required to continue
6 enrollment of additional eligible individuals;

7 ~~((4))~~ (5) If the plan provides benefits through contracts with,
8 ownership of, or management of health care facilities and contracts
9 with or employs health care providers, demonstrate to the satisfaction
10 of the insurance commissioner in consultation with the department of
11 health and the commission that its facilities and personnel are
12 adequate to provide the benefits prescribed in the ~~((uniform benefits
13 package))~~ minimum list of health services and offer supplemental
14 benefits to enrolled Washington residents, and that it is financially
15 capable of providing such residents with, or has made adequate
16 contractual arrangements with health care providers and facilities to
17 provide enrollees with such benefits;

18 ~~((5))~~ (6) Comply with portability of benefits requirements
19 prescribed by the commission;

20 ~~((6))~~ (7) Comply with administrative rules prescribed by the
21 commission, department of health, the insurance commissioner, and other
22 state agencies governing certified health plans;

23 ~~((7))~~ (8) Provide all enrollees with instruction and
24 informational materials to increase individual and family awareness of
25 injury and illness prevention; encourage assumption of personal
26 responsibility for protecting personal health; and stimulate discussion
27 about the use and limits of medical care in improving the health of
28 individuals and communities;

29 (9) Provide enrollees, and upon request, potential enrollees, with
30 written disclosure of coverage and benefits, including coverage
31 principles and any exclusions or restrictions on coverage, and make
32 available upon request information on evaluation and treatment policies
33 for specific conditions. Such information must be current, easily
34 understandable, and easily available prior to enrollment and upon
35 request thereafter;

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

1 (~~(8)~~) (11) Disclose to enrollees the charity care requirements
2 under chapter 70.170 RCW;

3 (~~(9)~~) (12) Include in all of its contracts with health care
4 providers and health care facilities a provision prohibiting such
5 providers and facilities from billing enrollees for any amounts in
6 excess of applicable enrollee point of service cost-sharing obligations
7 for services included in the (~~(uniform benefits package)~~) minimum list
8 of health services and supplemental benefits;

9 (~~(10)~~) (13) Include in all of its contracts issued for (~~(uniform~~
10 ~~benefits package)~~) minimum list of health services and supplemental
11 benefits coverage a subrogation provision that allows the certified
12 health plan to recover the costs of (~~(uniform benefits package)~~)
13 minimum list of health services and supplemental benefits services
14 incurred to care for an enrollee injured by a negligent third party.
15 The costs recovered shall be limited to:

16 (a) If the certified health plan has not intervened in the action
17 by an injured enrollee against a negligent third party, then the amount
18 of costs the certified health plan can recover shall be limited to the
19 excess remaining after the enrollee has been fully compensated for his
20 or her loss minus a proportionate share of the enrollee's costs and
21 fees in bringing the action. The proportionate share shall be
22 determined by:

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

25 (ii) The written agreement between the attorney and client that
26 established fees and costs when fees and costs are not addressed by the
27 court.

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

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

37 (~~(11)~~) (14) Establish and maintain a grievance procedure approved
38 by the commissioner, to provide a reasonable and effective resolution
39 of complaints initiated by enrollees concerning any matter relating to

1 the provision of benefits under the (~~uniform benefits package~~)
2 minimum list of health services and supplemental benefits, access to
3 health care services, and quality of services. Each certified health
4 plan shall respond to complaints filed with the insurance commissioner
5 within fifteen working days. The insurance commissioner in
6 consultation with the commission shall establish standards for
7 resolution of grievances;

8 (~~(12)~~) (15) Comply with the provisions of chapter 48.30 RCW
9 prohibiting unfair and deceptive acts and practices to the extent such
10 provisions are not specifically modified or superseded by the
11 provisions of chapter 492, Laws of 1993 and be prohibited from offering
12 or supplying incentives that would have the effect of avoiding the
13 requirements of subsection (~~(3)~~) (4) of this section;

14 (~~(13)~~) (16) Have culturally sensitive health promotion programs
15 that include approaches that are specifically effective for persons of
16 color and accommodating to different cultural value systems, gender,
17 and age;

18 (~~(14)~~) (17) Permit every category of health care provider to
19 provide health services or care for conditions included in the
20 (~~uniform benefits package~~) minimum list of health services to the
21 extent that:

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

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

25 (i) Provision, utilization review, and cost containment of health
26 services;

27 (ii) Management and administrative procedures; and

28 (iii) Provision of cost-effective and clinically efficacious health
29 services;

30 (~~(15)~~) (18) Establish the geographic boundaries in which they
31 will obligate themselves to deliver the services required under the
32 (~~uniform benefits package~~) minimum list of health services and
33 include such information in their application for certification, but
34 the commissioner shall review such boundaries and may disapprove, in
35 conformance with guidelines adopted by the commission, those that have
36 been clearly drawn to be exclusionary within a health care catchment
37 area;

38 (~~(16)~~) (19) Annually report the names and addresses of all
39 officers, directors, or trustees of the certified health plan during

1 the preceding year, and the amount of wages, expense reimbursements, or
2 other payments to such individuals;

3 ~~((17))~~ (20) Annually report the number of residents enrolled and
4 terminated during the previous year. Additional information regarding
5 the enrollment and termination pattern for a certified health plan may
6 be required by the commissioner to determine compliance with the open
7 enrollment and free access requirements of chapter 492, Laws of 1993;
8 and

9 ~~((18))~~ (21) Disclose any financial interests held by officers and
10 directors in any facilities associated with or operated by the
11 certified health plan.

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

14 (1) On July 1, 1995, the commission shall file as proposed rules
15 the draft and adopted rules in WAC 245-04-010 through 245-04-240, which
16 establish certified health plan standards as they were submitted to the
17 legislature by the health services commission on January 10, 1995. The
18 commission may modify these rules according to the terms of chapter
19 34.05 RCW, the administrative procedure act, but must adopt them in
20 final form no later than October 1, 1995.

21 (2) On July 1, 1995, the commission shall file as proposed rules
22 the draft rules in WAC 245-04-300 through 245-04-350, which establish
23 certified health plan quality standards as they were submitted to the
24 legislature by the health services commission on January 10, 1995. The
25 commission may modify these rules according to chapter 34.05 RCW, the
26 administrative procedure act, but must adopt the rules in final form no
27 later than October 1, 1995.

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

34 NEW SECTION. Sec. 7. A new section is added to chapter 70.47 RCW
35 to read as follows:

36 The administrator shall expand the schedule of covered basic health
37 services that were available to an enrollee of the basic health plan as

1 of July 1, 1994, to include services of licensed midwives, limited
2 chiropractic care, limited chemical dependency services, limited mental
3 health services, and limited medical rehabilitation. Such expansion
4 shall not increase the actuarially determined average member per month
5 cost, excluding adjustments for inflation and utilization by more than
6 five percent. After the administrator has made the modifications to
7 the basic health plan that are necessary to include these services, the
8 basic health plan may not be further modified in a manner that will
9 increase the average per member per month cost except by an act of law.

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

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

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

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

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

21 (1) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
22 1995 (this act) shall preclude insurers, health care service
23 contractors, health maintenance organizations, or certified health
24 plans from insuring, providing, or contracting for benefits not
25 included in the ~~((uniform benefits package or in supplemental~~
26 ~~benefits)) minimum list of health services.~~

27 (2) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
28 1995 (this act) shall restrict the right of an employer to offer, an
29 employee representative to negotiate for, or an individual or employer
30 to purchase ~~((supplemental or additional))~~ any benefits not included in
31 the ~~((uniform benefits package))~~ minimum list of health services.

32 (3) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
33 1995 (this act) shall restrict the right of an employer to offer or
34 provide or an employee representative to negotiate for employer payment
35 ~~((of up to one hundred percent of the premium of the lowest priced~~
36 ~~uniform benefits package available in the geographic area where the~~

1 ~~employer is located))~~ of the entire premium for any health insurance or
2 for employer reimbursement of any point-of-service cost-sharing amounts
3 that may be required under such health insurance.

4 (4) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
5 1995 (this act) shall be construed to affect the collective bargaining
6 rights of employee organizations ((to the extent that federal law
7 specifically restricts the ability of states to limit collective
8 bargaining rights of employee organizations)).

9 (5) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
10 1995 (this act) shall be construed to affect the ability of employee
11 organizations representing K-12 employees to collectively bargain with
12 school districts to provide benefits not contained in the benefits
13 package administered by the health care authority or to provide premium
14 payments in addition to the state budgeted amounts for premium
15 payments, so long as funds for such extra benefits are from local levy
16 funds.

17 (6) Nothing in chapter 492, Laws of 1993 or chapter . . . , Laws of
18 1995 (this act) shall restrict the ability of employee organizations
19 representing K-12 employees to negotiate for school districts to
20 provide benefits not contained in the package administered by the
21 health care authority, so long as funds for such extra benefits are
22 from local levy funds.

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

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

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

1 a whistleblower has been subjected to workplace reprisal or retaliatory
2 action has the remedies provided under chapter 49.60 RCW.

3 (2)(a) "Improper quality of care" means any practice, procedure,
4 action, or failure to act that violates accepted standards of practice
5 of the applicable state health licensing authority under Title 18 RCW,
6 or certified health plan rules under the authority of this act and
7 enforced by the insurance commissioner or the department of health.
8 Each health disciplinary authority as defined in RCW 18.130.040 shall,
9 with consultation and interdisciplinary coordination provided by the
10 state department of health, adopt rules defining accepted standards of
11 practice for their profession that shall further define improper
12 quality of care.

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

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

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

29 (4) The department shall adopt rules to implement this section,
30 including procedures for filing, investigation, and resolution of
31 whistleblower complaints that are integrated with complaint procedures
32 under Title 18 RCW for health professionals and chapter 43.72 RCW for
33 certified health plans.

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

36 All health care facilities, certified health plans, and providers
37 must develop and disclose a staffing plan to include professional and
38 nonprofessional staff including, but not limited to, direct care

1 registered nurse to patient ratios for each treatment setting and
2 shift. This section does not require a certified health plan, health
3 care facility, or health provider to adhere to any particular standard
4 that may not be otherwise provided by law. The department shall set in
5 rule the forms, frequency of disclosure, and posting requirements for
6 such information.

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

9 The department of health in consultation with the nursing quality
10 assurance commission under chapter 18.79 RCW shall develop staffing
11 plans for hospitals that include staffing ratios that are related to
12 patient care needs, including level of acuity of patients, and
13 licensure requirements. The department shall develop in rule the
14 forms, frequency of disclosure, and posting requirements for such
15 information.

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

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

1 and improvement rules and be accredited by an approved quality review
2 organization.

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

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

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

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

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

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

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

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

1 (a) Contracts shall guarantee continuity of coverage. Such
2 provision, which shall be included in every contract, shall provide
3 that:

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

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

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

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

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

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

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

37 (3) In addition to such unfair methods and unfair or deceptive acts
38 or practices as are expressly defined and prohibited by this code, the
39 commissioner may from time to time by rule adopted pursuant to chapter

1 34.05 RCW, define other methods of competition and other acts and
2 practices in the conduct of such business reasonably found by the
3 commissioner to be unfair or deceptive, which shall include any act or
4 practice that has the effect of changing access to appropriate and
5 effective health services in a manner proscribed by the laws and rules
6 of the state of Washington.

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

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

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

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

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

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

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

35 (2) The health maintenance organization may limit an offer of
36 comparable coverage without health screening to a period not less than
37 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 NEW SECTION. Sec. 18. A new section is added to Title 48 RCW to
11 read as follows:

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

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

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

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

33 (a) Provide written notice to enrollees, upon enrollment with the
34 plan and upon enrollee request thereafter, listing, by provider,
35 services that any provider refuses to perform for reason of conscience
36 or religion;

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

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

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

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

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

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

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

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

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

1 cost of the basic health plan. The health care authority shall use
2 moneys in the basic health plan trust account for this purpose.

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

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

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

35 NEW SECTION. **Sec. 23.** The sum of dollars, or as much
36 thereof as may be necessary, is appropriated for the biennium ending
37 June 30, 1997, from the health services account to the health care

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

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

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

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

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

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

32 The department of labor and industries and the health care
33 authority shall develop an easy employer payment method for the basic
34 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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