

# SENATE BILL REPORT

## SHB 2404

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As Reported By Senate Committee On:  
Health & Long-Term Care, February 23, 2006

**Title:** An act relating to retainer health care practices.

**Brief Description:** Regulating retainer health care practices.

**Sponsors:** House Committee on Health Care (originally sponsored by Representatives Cody and Morrell; by request of Insurance Commissioner).

**Brief History:** Passed House: 2/09/06, 95-3.

**Committee Activity:** Health & Long-Term Care: 2/22/06, 2/23/06 [DPA].

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Majority Report:** Do pass as amended.

Signed by Senators Keiser, Chair; Thibaudeau, Vice Chair; Franklin, Kastama, Kline and Poulsen.

**Staff:** Jonathan Seib (786-7427)

**Background:** Retainer health care, also known as concierge medicine, is an approach to medical practice in which physicians charge their patients periodic membership fees in exchange for enhanced services or amenities. Retainer practices typically care for fewer patients than do conventional practices, and the fee provides the patient with personalized health care services, including same-day appointments, comprehensive annual physicals, home visits, accompaniment to emergency rooms and specialists' offices, and immediate access to their physician via cell phone or pager.

A recent national survey by the U.S. Government Accountability Office (GAO) found that the membership fees in retainer practices ranged from \$60 to \$15,000 a year, with about half of the respondents charging individual annual membership fees of \$1,500 to \$2,000. Nationwide, the number of such practices is limited, but growing rapidly. A disproportionate number are in Washington, where the idea is thought to have originated in the mid-1990s. The GAO survey identified 21 physicians in this state practicing retainer health care.

The Office of the Insurance Commissioner has determined that health care providers who engage in the practice of retainer health care are subject to current state law governing health care service contractors, but believes the full scope of regulation under this law is neither practical nor warranted.

**Summary of Amended Bill:** Retainer health care practices are defined, explicitly exempted from the definition of health care service contractor, and are:

- Limited to providing only primary care, and prohibited from including more than 30 providers in a single group;

- Required to deposit retainer fees into a trust account, and access them only at the end of the specified service period. If unable to provide the specified services, the retainer practice must promptly refund all unearned retainer fees;
- Prohibited from billing health plans for services provided under the retainer agreement;
- Prohibited from refusing to accept a new retainer patient solely because of the patient's health status;
- Required to distribute to any retainer patient upon enrollment a form developed by the Insurance Commissioner informing the patient of his or her financial rights and responsibilities; and
- Required to maintain for five years, and upon request make available to the Insurance Commissioner, specified documents and records relating to the practice.

A joint select legislative committee on retainer health care practices is established. By December 1, 2006, the committee must report its findings and recommendations regarding the appropriate scope and level of regulation of retainer health care practices in Washington.

**Amended Bill Compared to Original Bill:** The striking amendment corrects an internal reference, adds language creating a joint select legislative committee on retainer health care practices, and delays the effective date of the remainder of the bill until January 1, 2008.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Sections 1 through 8 take effect on January 1, 2008. Section 9 and 10 take effect ninety days after adjournment of session in which bill is passed.

**Testimony For:** As the law currently stands, the Insurance Commissioner believes that retainer health practices fit the definition of health care service contractor, but that it is neither appropriate nor practical to regulate them as such. Absent this legislation, however, the current law provides the only tools to regulate these entities. He believes the bill reflects an appropriate level of regulation of these practices as risk bearing entities, and provides adequate consumer protection. The Commissioner has been working on this issue since 2003, and now has a good understanding of these practices, and has worked with interested parties to develop this bill. The bill removes a cloud of legal uncertainty regarding retainer health practices, and reflects a level of regulation that is appropriate to the risk.

**Testimony Against:** We believe the bill is well intentioned, but it is important to note that a risk transfer does take place in these arrangements. Similar regulatory activity should be applied to similar activities in the marketplace. Other insurance carriers would also like to have latitude to offer lower priced health insurance products that are free of many of the requirements that are in the insurance code, but the historic practice is to add more requirements rather than take any away. Under this bill, virtually none of the consumer

protections that apply to other risk-bearing arrangements would apply to retainer health practices, such as rate regulations and the patient's bill of rights.

**Who Testified:** PRO: Beth Berendt, Office of the Insurance Commissioner; Andy Dolan, Washington State Medical Association.

CON: Mel Sorenson, America's Health Insurance Plans; Sydney Smith Zvara, Association of Washington Healthcare Plans.