

# SENATE BILL REPORT

## SB 5140

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As of January 19, 2021

**Title:** An act relating to protecting pregnancy and miscarriage-related patient care.

**Brief Description:** Protecting pregnancy and miscarriage-related patient care.

**Sponsors:** Senators Kuderer, Frockt, Conway, Das, Dhingra, Hasegawa, Hunt, Lovelett, Randall, Saldaña, Stanford, Wellman and Wilson, C..

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/20/21.

**Brief Summary of Bill**

- Prohibits health care entities from restricting health care providers from providing services related to pregnancy complications.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Staff:** LeighBeth Merrick (786-7445)

**Background:** Scope of Practice. Scope of practice is the procedures, actions, and processes a health care provider is permitted to undertake in keeping with the terms of the provider's professional license. These may include diagnosis, treatment, surgical procedures, and authority to prescribe drugs to treat a patient's condition. Scope of practice is limited to that which the law allows for specific education and experience, and specific demonstrated competency. Health care facilities may grant privileges to a health care provider to admit patients and to provide services to patients in that facility.

Emergency Medical Treatment and Active Labor Act. Under the federal Emergency Medical Treatment and Active Labor Act, which was passed by Congress in 1986, a hospital may not turn away a patient who comes to the emergency department with an emergency medical condition. The hospital must screen and evaluate the patient and

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provide treatment necessary to stabilize them.

Eliminating Barriers to Reproductive Health Care for All Act. In 2019, the Legislature passed 2SSB 5602 which requires hospitals to submit access to care policies to the Department of Health (DOH) related to admissions, nondiscrimination, and reproductive health care. DOH developed a form for hospitals to use when submitting their information. Each hospital's reproductive health policy and reproductive health services provided are posted on DOH's website.

Protecting Patient Care Act. In 2020, the Legislature passed ESHB 1608 which prohibits health care entities from limiting health care providers from providing accurate and comprehensive information to patients about the patient's health status and treatment options, including information about available services and what relevant resources are available in the community and how to access those resources. DOH developed information for health care entities and providers about implementing the law, which are available on DOH's website.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** If a health care provider is acting in good faith, within their scope of practice, education, training, and experience, and within the accepted standard of care, a health care entity may not prohibit the health care provider's provision of health care services related to complications of pregnancy in cases when not providing the service would violate the accepted standard of care, or could pose a risk to the patient's life or irreversible complications, or impairment to the patient's body. Health care services related to complications of pregnancy includes, but it is not limited to, services related to miscarriage management and treatment for ectopic pregnancies. An individual who is aggrieved by a violation of these requirements may take civil action against a health care entity. A health care entity may not discharge, demote, suspend, discipline, or otherwise discriminate against a health care provider for providing services in this manner. This does not prohibit a health care entity from limiting a health care provider's practice for purposes of complying with network or utilization review requirements, quality control, or patient safety.

By December 31, 2021, DOH must design, prepare, and make available online materials to inform health care providers and staff of the authority to act under these provisions. Beginning March 1, 2022, the health care entity must provide the information prepared by DOH to health care providers and staff at the time of hiring, contracting, or privileging, and on an annual basis. If any provision is found to be in conflict with federal requirements prescribed as a condition to receive federal funds, the conflicting provision is inoperative to the extent of the conflict for agencies directly affected.

**Appropriation:** None.

**Fiscal Note:** Requested on January 13, 2021.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.