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**SUBSTITUTE HOUSE BILL 2457**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Cody, Kloba, Robinson, Schmick, Tharinger, Macri, Pollet, and Wylie)

1 AN ACT Relating to the establishment of a board for the  
2 evaluation and containment of health care expenditures; and adding a  
3 new chapter to Title 70 RCW.

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

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

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

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

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

14 (a) Medical;

15 (b) Behavioral;

16 (c) Substance use disorder;

17 (d) Mental health;

18 (e) Surgical;

19 (f) Optometric;

20 (g) Dental;

21 (h) Podiatric;

- 1 (i) Chiropractic;  
2 (j) Psychiatric;  
3 (k) Pharmaceutical;  
4 (l) Therapeutic;  
5 (m) Preventive;  
6 (n) Rehabilitative;  
7 (o) Supportive;  
8 (p) Geriatric; or  
9 (q) Long-term care.
- 10 (4) "Health care cost growth" means the annual percentage change  
11 in total health care expenditures in the state.
- 12 (5) "Health care cost growth benchmark" means the target  
13 percentage for health care cost growth.
- 14 (6) "Health care coverage" means policies, contracts,  
15 certificates, and agreements issued or offered by a payer.
- 16 (7) "Health care provider" means a person or entity that is  
17 licensed, certified, registered, or otherwise authorized by the law  
18 of this state to provide health care in the ordinary course of  
19 business or practice of a profession.
- 20 (8) "Net cost of private health care coverage" means the  
21 difference in premiums received by a payer and the claims for the  
22 cost of health care paid by the payer under a policy or certificate  
23 of health care coverage.
- 24 (9) "Payer" means:  
25 (a) A health carrier as defined in RCW 48.43.005;  
26 (b) A publicly funded health care program, including medicaid,  
27 medicare, the state children's health insurance program, and public  
28 and school employee benefit programs administered under chapter 41.05  
29 RCW;  
30 (c) A third-party administrator; and  
31 (d) Any other public or private entity, other than an individual,  
32 that pays or reimburses the cost for the provision of health care.
- 33 (10) "Total health care expenditures" means all health care  
34 expenditures in this state by public and private sources, including:  
35 (a) All payments on health care providers' claims for  
36 reimbursement for the cost of health care provided;  
37 (b) All payments to health care providers other than payments  
38 described in (a) of this subsection;  
39 (c) All cost-sharing paid by residents of this state, including  
40 copayments, deductibles, and coinsurance; and

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

2 NEW SECTION. **Sec. 2.** The authority shall establish a board to  
3 be known as the health care cost transparency board. The board is  
4 responsible for the analysis of total health care expenditures in  
5 Washington, identifying trends in health care cost growth, and  
6 establishing a health care cost growth benchmark. The board shall  
7 provide analysis of the factors impacting these trends in health care  
8 cost growth and, after review and consultation with identified  
9 entities, shall identify those health care providers and payers that  
10 are exceeding the health care cost growth benchmark.

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

13 (a) The insurance commissioner, or the commissioner's designee;

14 (b) The administrator of the health care authority, or the  
15 administrator's designee;

16 (c) The secretary of labor and industries, or the secretary's  
17 designee;

18 (d) The chief executive officer of the health benefit exchange,  
19 or the chief executive officer's designee;

20 (e) One member representing local governments that purchase  
21 health care for their employees;

22 (f) Two members representing consumers;

23 (g) One member representing Taft-Hartley health benefit plans;

24 (h) Two members representing large employers, at least one of  
25 which is a self-funded group health plan;

26 (i) One member representing small businesses;

27 (j) One member who is an actuary or an expert in health care  
28 economics; and

29 (k) One member who is an expert in health care financing.

30 (2) The governor shall appoint the members of the board. For the  
31 members of the board identified in subsection (1)(f) through (k) of  
32 this section, each of the two largest caucuses of each chamber of the  
33 legislature shall submit one nominee for each of the eight positions.  
34 The nominees may not be legislators and, except for the members of  
35 the board identified in subsection (1)(j) and (k) of this section,  
36 the nominees may not be employees of the state or its political  
37 subdivisions. No caucus may submit the same nominee. The governor  
38 must choose at least one nominee from each caucus.

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

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

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

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

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

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

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

1        NEW SECTION.    **Sec. 4.**    (1) The board shall establish an advisory  
2 committee on data issues and an advisory committee of health care  
3 providers and carriers. The board may establish other advisory  
4 committees as it finds necessary.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (l) Three members, at least one of whom represents a disability  
5 insurer, selected from a list of six nominees submitted by America's  
6 health insurance plans.

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

12 (2) The board shall:

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

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

36 (c) Annually calculate total health care expenditures and health  
37 care cost growth:

38 (i) Statewide and by geographic rating area;

1 (ii) For each health care provider or provider system and each  
2 payer, taking into account the health status of the patients of the  
3 health care provider or the enrollees of the payer. The board must  
4 develop an implementation plan for reporting information about health  
5 care providers, provider systems, and payers;

6 (iii) By market segment;

7 (iv) Per capita; and

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

10 (d) Annually establish the health care cost growth benchmark for  
11 increases in total health expenditures. The board, in determining the  
12 health care cost growth benchmark, shall begin with an initial  
13 implementation that applies to the highest cost drivers in the health  
14 care system and develop a phased plan to include other components of  
15 the health system for subsequent years; and

16 (e) Release reports in accordance with section 7 of this act.

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

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

29 NEW SECTION. **Sec. 7.** (1) By August 1, 2021, the board shall  
30 submit a preliminary report to the governor and each chamber of the  
31 legislature. The preliminary report shall address the progress toward  
32 establishment of the board and advisory committees and the  
33 establishment of total health care expenditures, health care cost  
34 growth, and the health care cost growth benchmark for the state,  
35 including proposed methodologies for determining each of these  
36 calculations. The preliminary report shall include a discussion of  
37 any obstacles related to conducting the board's work including any

1 deficiencies in data necessary to perform its responsibilities under  
2 section 5 of this act and any supplemental data needs.

3 (2) Beginning August 1, 2022, the board shall submit annual  
4 reports to the governor and each chamber of the legislature. The  
5 first annual report shall determine the total health care  
6 expenditures for the most recent year for which data is available and  
7 shall establish the health care cost growth benchmark for the  
8 following year. The annual reports may include policy recommendations  
9 applicable to the board's activities and analysis of its work,  
10 including any recommendations related to lowering health care costs  
11 and the establishment of a rating system of health care providers and  
12 payers.

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

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