
SECOND SUBSTITUTE SENATE BILL 5602

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators Randall, Wilson, C., Nguyen, Das, Saldaña, Cleveland, Takko, Kuderer, Hasegawa, Rolfes, Van De Wege, Keiser, Hunt, Wellman, Billig, Dhingra, Conway, Pedersen, Frockt, Salomon, Palumbo, Darneille, McCoy, Lias, Mullet, and Carlyle)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to eliminating barriers to reproductive health
2 care for all; amending RCW 48.43.072; adding a new section to chapter
3 74.09 RCW; adding a new section to chapter 70.41 RCW; adding a new
4 section to chapter 48.43 RCW; adding a new section to chapter 70.250
5 RCW; creating new sections; providing effective dates; and declaring
6 an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds and declares:

9 (1) It is the public policy of this state to provide the maximum
10 access to reproductive health care and reproductive health care
11 coverage for all people in Washington state.

12 (2) In 2018, the legislature passed Substitute Senate Bill No.
13 6219. Along with reproductive health care coverage requirements, the
14 bill mandated a literature review of barriers to reproductive health
15 care. As documented by the report submitted to the legislature on
16 January 1, 2019, young people, immigrants, people living in rural
17 communities, transgender and gender nonconforming people, and people
18 of color still face significant barriers to getting the reproductive
19 health care they need.

20 (3) Washingtonians who are transgender and gender nonconforming
21 have important reproductive health care needs as well. These needs go

1 unmet when, in the process of seeking care, transgender and gender
2 nonconforming people are stigmatized or are denied critical health
3 services because of their gender identity or expression.

4 (4) The literature review mandated by Substitute Senate Bill No.
5 6219 found that, "[a]ccording to 2015 U.S. Transgender Survey data,
6 thirty-two percent of transgender respondents in Washington State
7 reported that in the previous year they did not see a doctor when
8 needed because they could not afford it."

9 (5) Existing state law should be enhanced to ensure greater
10 coverage of and timely access to reproductive health care for the
11 benefit of all Washingtonians, regardless of gender identity or
12 expression.

13 (6) Because stigma is also a key barrier to access to
14 reproductive health care, all Washingtonians, regardless of gender
15 identity, should be free from discrimination in the provision of
16 health care services, health care plan coverage, and in access to
17 publicly funded health coverage.

18 (7) All people should have access to robust reproductive health
19 services to maintain and improve their reproductive health.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09
21 RCW to read as follows:

22 (1) In the provision of reproductive health care services through
23 programs under this chapter, the authority, managed care plans, and
24 providers that administer or deliver such services may not
25 discriminate in the delivery of a service provided through a program
26 of the authority based on the covered person's gender identity or
27 expression.

28 (2) The authority and any managed care plans delivering or
29 administering services purchased or contracted for by the authority,
30 may not issue automatic initial denials of coverage for reproductive
31 health care services that are ordinarily or exclusively available to
32 individuals of one gender, based on the fact that the individual's
33 gender assigned at birth, gender identity, or gender otherwise
34 recorded in one or more government-issued documents, is different
35 from the one to which such health services are ordinarily or
36 exclusively available.

37 (3) Denials as described in subsection (2) of this section are
38 prohibited discrimination under chapter 49.60 RCW.

1 (4) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "Gender expression" means a person's gender-related
4 appearance and behavior, whether or not stereotypically associated
5 with the person's gender assigned at birth.

6 (b) "Gender identity" means a person's internal sense of the
7 person's own gender, regardless of the person's gender assigned at
8 birth.

9 (c) "Reproductive health care services" means any medical
10 services or treatments, including pharmaceutical and preventive care
11 service or treatments, directly involved in the reproductive system
12 and its processes, functions, and organs involved in reproduction, in
13 all stages of life. Reproductive health care services does not
14 include infertility treatment.

15 (d) "Reproductive system" includes, but is not limited to:
16 Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

17 (5) This section must not be construed to authorize
18 discrimination on the basis of a covered person's gender identity or
19 expression in the administration of any other medical assistance
20 programs administered by the authority.

21 **Sec. 3.** RCW 48.43.072 and 2018 c 119 s 2 are each amended to
22 read as follows:

23 (1) A health plan (~~((issued or renewed on or after January 1,~~
24 ~~2019,))~~ or student health plan, including student health plans deemed
25 by the insurance commissioner to have a short-term limited purpose or
26 duration or to be guaranteed renewable while the covered person is
27 enrolled as a regular full-time undergraduate or graduate student at
28 an accredited higher education institution, shall provide coverage
29 for:

30 (a) All contraceptive drugs, devices, and other products,
31 approved by the federal food and drug administration, including
32 over-the-counter contraceptive drugs, devices, and products, approved
33 by the federal food and drug administration. This includes condoms,
34 regardless of the gender or sexual orientation of the covered person,
35 and regardless of whether they are to be used for contraception or
36 exclusively for the prevention of sexually transmitted infections;

37 (b) Voluntary sterilization procedures;

38 (c) The consultations, examinations, procedures, and medical
39 services that are necessary to prescribe, dispense, insert, deliver,

1 distribute, administer, or remove the drugs, devices, and other
2 products or services in (a) and (b) of this subsection(~~(7)~~);

3 (d) The following preventive services:

4 (i) Screening for physical, mental, sexual, and reproductive
5 health care needs that arise from a sexual assault; and

6 (ii) Well-person preventive visits;

7 (e) Medically necessary services and prescription medications for
8 the treatment of physical, mental, sexual, and reproductive health
9 care needs that arise from a sexual assault; and

10 (f) The following reproductive health-related over-the-counter
11 drugs and products approved by the federal food and drug
12 administration: Prenatal vitamins for pregnant persons; and breast
13 pumps for covered persons expecting the birth or adoption of a child.

14 (2) The coverage required by subsection (1) of this section:

15 (a) May not require copayments, deductibles, or other forms of
16 cost sharing(~~(7)~~):

17 (i) Except for:

18 (A) The medically necessary services and prescription medications
19 required by subsection (1)(e) of this section; and

20 (B) The drugs and products in subsection (1)(f) of this section;
21 or

22 (ii) Unless the health plan is offered as a qualifying health
23 plan for a health savings account. For such a qualifying health plan,
24 the carrier must establish the plan's cost sharing for the coverage
25 required by subsection (1) of this section at the minimum level
26 necessary to preserve the enrollee's ability to claim tax exempt
27 contributions and withdrawals from (~~his or her~~) the enrollee's
28 health savings account under internal revenue service laws and
29 regulations; and

30 (b) May not require a prescription to trigger coverage of
31 over-the-counter contraceptive drugs, devices, and products, approved
32 by the federal food and drug administration, except those
33 reproductive health related drugs and products as set forth in
34 subsection (1)(f) of this section.

35 (3) A health carrier may not deny the coverage required in
36 subsection (1) of this section because an enrollee changed (~~his or~~
37 ~~her~~) the enrollee's contraceptive method within a twelve-month
38 period.

39 (4) Except as otherwise authorized under this section, a health
40 benefit plan may not impose any restrictions or delays on the

1 coverage required under this section, such as medical management
2 techniques that limit enrollee choice in accessing the full range of
3 contraceptive drugs, devices, or other products, approved by the
4 federal food and drug administration.

5 (5) Benefits provided under this section must be extended to all
6 enrollees, enrolled spouses, and enrolled dependents.

7 (6) This section may not be construed to allow for denial of care
8 on the basis of race, color, national origin, sex, sexual
9 orientation, gender expression or identity, marital status, age,
10 citizenship, immigration status, or disability.

11 (7) A health plan or student health plan, including student
12 health plans deemed by the insurance commissioner to have a short-
13 term limited purpose or duration or to be guaranteed renewable while
14 the covered person is enrolled as a regular full-time undergraduate
15 or graduate student at an accredited higher education institution,
16 issued or renewed on or after January 1, 2021, may not issue
17 automatic initial denials of coverage for reproductive health care
18 services that are ordinarily or exclusively available to individuals
19 of one gender, based on the fact that the individual's gender
20 assigned at birth, gender identity, or gender otherwise recorded in
21 one or more government-issued documents, is different from the one to
22 which such health services are ordinarily or exclusively available.

23 (8) The definitions in this subsection apply throughout this
24 section unless the context clearly requires otherwise.

25 (a) "Gender expression" means a person's gender-related
26 appearance and behavior, whether or not stereotypically associated
27 with the person's gender assigned at birth.

28 (b) "Gender identity" means a person's internal sense of the
29 person's own gender, regardless of the person's gender assigned at
30 birth.

31 (c) "Reproductive health care services" means any medical
32 services or treatments, including pharmaceutical and preventive care
33 service or treatments, directly involved in the reproductive system
34 and its processes, functions, and organs involved in reproduction, in
35 all stages of life. Reproductive health care services does not
36 include infertility treatment.

37 (d) "Reproductive system" includes, but is not limited to:
38 Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

39 (e) "Well-person preventive visits" means the preventive annual
40 visits recommended by the federal health resources and services

1 administration women's preventive services guidelines, with the
2 understanding that those visits must be covered for women, and when
3 medically appropriate, for transgender, nonbinary, and intersex
4 individuals.

5 (9) This section may not be construed to authorize discrimination
6 on the basis of gender identity or expression, or perceived gender
7 identity or expression, in the provision of nonreproductive health
8 care services.

9 (10) The commissioner, under RCW 48.30.300, and the human rights
10 commission, under chapter 49.60 RCW shall share enforcement authority
11 over complaints of discrimination under this section as set forth in
12 RCW 49.60.178.

13 (11) The commissioner may adopt rules to implement this section.

14 NEW SECTION. Sec. 4. A new section is added to chapter 70.41
15 RCW to read as follows:

16 (1) By September 1, 2019, every hospital must submit to the
17 department its policies related to access to care regarding:

- 18 (a) Admission;
19 (b) Nondiscrimination; and
20 (c) Reproductive health care.

21 (2) The department shall post a copy of the policies received
22 under subsection (1) of this section on its web site.

23 (3) If a hospital makes changes to any of the policies listed
24 under subsection (1) of this section, it must submit a copy of the
25 changed policy to the department within thirty days after the
26 hospital approves the changes.

27 (4) A hospital must post a copy of the policies provided to the
28 department under subsection (1) of this section and the form required
29 under subsection (5) of this section to the hospital's own web site
30 in a location where the policies are readily accessible to the public
31 without a required login or other restriction.

32 (5) By September 1, 2019, the department shall, in consultation
33 with stakeholders including a hospital association and patient
34 advocacy groups, develop a simple and clear form to be submitted by
35 hospitals along with the policies required in subsection (1) of this
36 section. The form must provide the public with specific information
37 about which reproductive health care services are and are not
38 generally available at each hospital. The form must include contact

1 information for the hospital in case patients have specific questions
2 about services available at the hospital.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.43
4 RCW to read as follows:

5 (1) The legislature intends to codify the state's current
6 practice of requiring health carriers to bill enrollees with a single
7 invoice and to segregate into a separate account the premium
8 attributable to abortion services for which federal funding is
9 prohibited. Washington has achieved full compliance with section 1303
10 of the federal patient protection and affordable care act by
11 requiring health carriers to submit a single invoice to enrollees and
12 to segregate into a separate account the premium amounts attributable
13 to coverage of abortion services for which federal funding is
14 prohibited. Further, section 1303 states that the act does not
15 preempt or otherwise have any effect on state laws regarding the
16 prohibition of, or requirement of, coverage, funding, or procedural
17 requirements on abortions.

18 (2) In accordance with RCW 48.43.073 related to requirements for
19 coverage and funding of abortion services, an issuer offering a
20 qualified health plan must:

21 (a) Bill enrollees and collect payment through a single invoice
22 that includes all benefits and services covered by the qualified
23 health plan; and

24 (b) Include in the segregation plan required under applicable
25 federal and state law a certification that the issuer's billing and
26 payment processes meet the requirements of this section.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.250
28 RCW to read as follows:

29 (1) No later than January 1, 2020, the collaborative shall begin
30 a review to identify, define, and endorse guidelines for the
31 provision of high quality sexual and reproductive health services in
32 clinical settings throughout Washington. This shall include the
33 development of specific clinical recommendations to improve sexual
34 and reproductive health care for:

- 35 (a) People of color;
36 (b) Immigrants and refugees;
37 (c) Victims and survivors of violence; and
38 (d) People with disabilities.

1 (2) The collaborative shall conduct its review consistent with
2 the activities, processes, and reporting standards specified in RCW
3 70.250.050. In conducting its review, the collaborative shall apply a
4 whole-person framework to develop evidence-based, culturally
5 sensitive recommendations to improve standards of care and health
6 equity.

7 (3) By December 15, 2020, the collaborative, through the
8 authority, shall provide a status report to the committees of the
9 legislature with jurisdiction over matters related to health care and
10 to the governor.

11 NEW SECTION. **Sec. 7.** The department of health shall develop
12 recommendations for increasing awareness about financial support that
13 is available for preexposure and postexposure prophylaxis. The
14 department of health shall consult with the state board of health,
15 the health care authority, and the health benefit exchange in
16 developing its recommendation related to outreach and education to
17 affected populations. By December 1, 2019, the department of health
18 shall provide its recommendations to the appropriate committees of
19 the legislature.

20 NEW SECTION. **Sec. 8.** This act may be known and cited as the
21 reproductive health care access for all act.

22 NEW SECTION. **Sec. 9.** (1) Section 2 of this act takes effect
23 January 1, 2020.

24 (2) Section 3 of this act takes effect January 1, 2021.

25 NEW SECTION. **Sec. 10.** Section 5 of this act is necessary for
26 the immediate preservation of the public peace, health, or safety, or
27 support of the state government and its existing public institutions,
28 and takes effect immediately.

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