

alternative approaches to levy limitation, incentive approaches to encouraging effective responsible decision-making at the local level, and the optimum use of the ideas and talents of teachers, administrators and citizens; and

(8) In regard to postsecondary education, the committee shall take into consideration the policy and planning studies or reports of the council for postsecondary education, and shall utilize to extent possible the data and findings of such council's studies and reports. In adopting a work program or prioritizing the areas for review or study, the committee shall determine whether actual or pending studies of such council have sufficiently examined the areas of concern to the committee, with the intent being to avoid unnecessary duplication of effort between the committee and the council.

The committee's first responsibilities shall be to identify priority areas and to prepare to address them in a phased-in manner. Furthermore, as areas are addressed, the committee shall seek out and highlight programs that are working and shall also make use of testimony and reports from those who have studied or who now are studying education in Washington. The committee's initial recommendations shall be made public as soon as possible. Those recommendations shall then be made to the governor and to the ~~((1983))~~ legislature during the regular legislative session in 1984. The committee shall make its full report and recommendations to the legislature during the regular legislative session in 1985 and shall cease to function at the conclusion of the ~~((1984 legislature))~~ regular legislative session in 1985 unless its duties are legislatively continued.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 29, 1983.

Passed the Senate April 13, 1983.

Approved by the Governor April 22, 1983.

Filed in Office of Secretary of State April 22, 1983.

CHAPTER 106

[Substitute House Bill No. 488]

HEALTH MAINTENANCE ORGANIZATIONS—PREPAID SERVICES— COVERAGE OF MINORS

AN ACT Relating to health maintenance organizations; amending section 3, chapter 290, Laws of 1975 1st ex. sess. as amended by section 1, chapter 151, Laws of 1982 and RCW 48.46.020; amending section 4, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.030; amending section 5, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.040; amending section 7, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.060; amending section 8, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.070; amending section 9, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.080; amending section 18, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.170; amending section 4, chapter

235, Laws of 1967 and RCW 24.03.015; amending section 15, chapter 209, Laws of 1969 ex. sess. as last amended by section 11, chapter 120, Laws of 1974 ex. sess. and RCW 41.26.150; amending section 20, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.21-.200; adding new sections to chapter 48.46 RCW; repealing section 6, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.050; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 290, Laws of 1975 1st ex. sess. as amended by section 1, chapter 151, Laws of 1982 and RCW 48.46.020 are each amended to read as follows:

As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context indicates otherwise.

(1) "Health maintenance organization" means any organization receiving a certificate of authority by the commissioner under this chapter which provides comprehensive health care services to enrolled participants of such organization on a group practice per capita prepayment basis or on a pre-paid individual practice plan, either directly or through contractual or other arrangements with other institutions, entities, or persons, and which qualifies as a health maintenance organization pursuant to RCW 48.46.030 and 48.46.040.

(2) "Comprehensive health care services" means basic consultative, diagnostic, and therapeutic services rendered by licensed health professionals together with emergency and preventive care, inpatient hospital, outpatient and physician care, at a minimum, and any additional health care services offered by the health maintenance organization.

(3) "Enrolled participant" means a person who or group of persons which has entered into a contractual arrangement or on whose behalf a contractual arrangement has been entered into with a health maintenance organization to receive health care services.

(4) "Health professionals" means practitioners who are licensed under the provisions of chapters 18.22, 18.25, 18.29, 18.32, 18.34, 18.53, 18.57, 18.57A, 18.64, 18.71, 18.71A, 18.74, 18.78, 18.83, or 18.88 RCW.

~~(5) ("Health care service contractor" means any corporation, cooperative group, partnership, or association which is registered as a health care contractor pursuant to the provisions of chapter 48.44 RCW.~~

~~(6))~~ "Health maintenance agreement" means an agreement for services between a health maintenance organization which is registered pursuant to the provisions of this chapter and enrolled participants of such organization which provides enrolled participants with comprehensive health services rendered to enrolled participants by health professionals, groups, facilities, and other personnel associated with the health maintenance organization.

~~((7))~~ (6) "Consumer" means any member, subscriber, enrollee, beneficiary, or other person entitled to health care services under terms of a health maintenance agreement, but not including health professionals, employees of health maintenance organizations, partners, or shareholders of stock corporations licensed as health maintenance organizations.

~~((8))~~ (7) "Meaningful role in policy making" means a procedure approved by the commissioner which provides consumers or elected representatives of consumers a means of submitting the views and recommendations of such consumers to the governing board of such organization coupled with reasonable assurance that the board will give regard to such views and recommendations.

~~((9))~~ (8) "Meaningful grievance procedure" means a procedure for investigation of consumer grievances in a timely manner aimed at mutual agreement for settlement according to procedures approved by the commissioner, and which may include arbitration procedures.

~~((10))~~ (9) "Provider" means any health professional, hospital, or other institution, organization, or person that furnishes any health care services and is licensed or otherwise authorized to furnish such services.

~~((11))~~ (10) "Department" means the state department of social and health services.

~~((12))~~ (11) "Commissioner" means the insurance commissioner.

~~((13))~~ (12) "Group practice" means a partnership, association, corporation, or other group of health professionals:

(a) The members of which may be individual health professionals, clinics, or both individuals and clinics who engage in the coordinated practice of their profession; and

(b) The members of which are compensated by a prearranged salary, or by capitation payment or drawing account that is based on the number of enrolled participants.

~~((14))~~ (13) "Individual practice health care plan" means an association of health professionals in private practice who associate for the purpose of providing prepaid comprehensive health care services on a fee-for-service or capitation basis.

~~((15))~~ (14) "Uncovered expenditures" means the costs of health care services that are covered by a health maintenance organization for which an enrolled participant would also be liable in the event of the health maintenance organization's insolvency.

Sec. 2. Section 4, chapter 290, Laws of 1975 1st ex. sess. and RCW 48-46.030 are each amended to read as follows:

Any corporation, cooperative group, partnership, individual, association, or groups of health professionals licensed by the state of Washington, public hospital district, or public institutions of higher education shall be entitled to a certificate of registration as a health maintenance organization if it:

(1) Provides comprehensive health care services to enrolled participants on a group practice per capita prepayment basis or on a prepaid individual practice plan and provides such health services either directly or through arrangements with institutions, entities, and persons which its enrolled population might reasonably require as determined by the health maintenance organization in order to be maintained in good health; and

~~(2) ((Otherwise meets the requirements of chapter 48.44 RCW: PROVIDED, That this requirement shall not apply to public institutions of higher education; and~~

~~(3))~~ (3) Is governed by a board elected by enrolled participants, or otherwise provides its enrolled participants with a meaningful role in policy making procedures of such organization, as defined in RCW 48.46.020(~~((8))~~)(7), and 48.46.070; and

~~((4))~~ (3) Affords enrolled participants with a meaningful grievance procedure aimed at settlement of disputes between such persons and such health maintenance organization, as defined in RCW 48.46.020(~~((9))~~) (8) and 48.46.100; and

~~((5))~~ (4) Provides enrolled participants, ~~((makes available for inspection at least annually, financial statements pertaining to health maintenance agreements, disclosing income and expenses, assets and liabilities, and the bases for proposed rate adjustments for health maintenance agreements relating to its activity as a health maintenance organization; and~~

~~((6))~~ (5) Demonstrates to the satisfaction of the commissioner that its facilities and personnel are reasonably adequate to provide comprehensive health care services to enrolled participants and that it is financially capable of providing such members with, or has made adequate contractual arrangements through insurance or otherwise to provide such members with, such health services; and

~~((7))~~ (6) Substantially complies with administrative rules and regulations of the commissioner for purposes of this chapter; and

~~((8))~~ (7) Submits an application for a certificate of registration which shall be verified by an officer or authorized representative of the applicant, being in form as the commissioner prescribes, and setting forth:

(a) A copy of the basic organizational document, if any, of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;

(b) A copy of the bylaws, rules and regulations, or similar documents, if any, which regulate the conduct of the internal affairs of the applicant, and all amendments thereto;

(c) A list of the names, addresses, members of the board of directors, board of trustees, executive committee, or other governing board or committee and the principal officers, partners, or members;

(d) A full and complete disclosure of any financial interests held by any officer, or director in any provider associated with the applicant or any provider of the applicant.

(e) A description of the health maintenance organization, its facilities and its personnel, and the applicant's most recent financial statement (~~((pertaining to prepaid health maintenance agreements;))~~) showing such organization's assets, liabilities, income, and other sources of financial support;

(f) A description of the geographic areas and the population groups to be served and the size and composition of the anticipated enrollee population;

(g) A copy of each type of health maintenance contract to be issued to enrolled participants;

(h) A schedule of all proposed rates of reimbursement to contracting health care facilities or providers, if any, and a schedule of the proposed charges for enrollee coverage for health care services, accompanied by data relevant to the formulation of such schedules;

(i) A description of the proposed method and schedule for soliciting enrollment in the applicant health maintenance organization and the basis of compensation for such solicitation services;

(j) A copy of the solicitation document to be distributed to all prospective enrolled participants in connection with any solicitation;

(k) A financial projection which sets forth the anticipated results during the initial two years of operation of such organization, (~~if such organization has not operated previously as a health care contractor under chapter 48.44 RCW;~~) accompanied by a summary of the assumptions and relevant data upon which the projection is based. The projection should include the projected expenses, enrollment trends, income, enrollee utilization patterns, and sources of working capital;

(l) A detailed description of the enrollee complaint system as provided by RCW 48.46.100;

(m) A detailed description of the procedures and programs to be implemented to assure that the health care services delivered to enrolled participants will be of professional quality; and

(n) Such other information as the commissioner shall require by rule or regulation which is reasonably necessary to carry out the provisions of this section.

A health maintenance organization shall, unless otherwise provided for in this chapter, file a notice describing any modification of any of the information required by subsection (8) of this section. Such notice shall be filed with the commissioner.

Sec. 3. Section 5, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.040 are each amended to read as follows:

After January 1, 1976, the commissioner shall issue a certificate of registration to the applicant within sixty days of such filing unless he notifies the applicant within such time that such application is not complete and the reasons therefor; or that he is not satisfied that:

(1) ~~The basic organizational document of the applicant ((when combined with the powers enumerated in RCW 48.46.050))~~ permits the applicant to conduct business as a health maintenance organization;

(2) The organization has demonstrated the intent and ability to assure that comprehensive health care services will be provided in a manner to assure both their availability and accessibility;

(3) The organization is financially responsible and may be reasonably expected to meet its obligations to its enrolled participants. In making this determination, the commissioner shall consider among other relevant factors:

(a) Any agreements with an insurer, a medical or hospital service bureau, a government agency or any other organization paying or insuring payment for health care services;

(b) Any agreements with providers for the provision of health care services; and

(c) Any arrangements for liability and malpractice insurance coverage;

(4) The procedures for offering health care services and offering or terminating contracts with enrolled participants are reasonable and equitable in comparison with prevailing health insurance subscription practices and health maintenance organization enrollment procedures; and, that

(5) Procedures have been established to:

(a) Monitor the quality of care provided by such organization, including, as a minimum, procedures for internal peer review;

(b) Resolve complaints and grievances initiated by enrolled participants in accordance with ~~((sections 2(8) and 11 of this 1975 amendatory act))~~ RCW 48.46.010 and 48.46.100;

(c) Offer enrolled participants an opportunity to participate in matters of policy and operation in accordance with RCW 48.46.020~~((+8))~~(7) and 48.46.070.

No person to whom a certificate of registration has not been issued, except a health maintenance organization certified by the secretary of the department of health, education and welfare, pursuant to Public Law 93-222 or its successor, shall use the words "health maintenance organization" or the initials "HMO" in its name, contracts, or literature: PROVIDED HOWEVER, That persons who are contracting with, operating in association with, recruiting enrolled participants for, or otherwise authorized by a health maintenance organization possessing a certificate of registration to act on its behalf may use the terms "health maintenance organization" or "HMO" for the limited purpose of denoting or explaining their relationship to such health maintenance organization.

The department of social and health services, at the request of the insurance commissioner, shall inspect and review the facilities of every applicant health maintenance organization to determine that such facilities are reasonably adequate to provide the health care services offered in their contracts. If the commissioner has information to indicate that such facilities fail to continue to be adequate to provide the health care services offered, the department of social and health services, upon request of the insurance

commissioner, shall reinspect and review the facilities and report to the insurance commissioner as to their adequacy or inadequacy.

Sec. 4. Section 7, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.060 are each amended to read as follows:

(1) Any health maintenance organization may enter into agreements with or for the benefit of persons or groups of persons, which require prepayment for health care services by or for such persons in consideration of the health maintenance organization providing health care services to such persons. Such activity is not subject to the laws relating to insurance if the health care services are rendered directly by the health maintenance organization or by any provider which has a contract or other arrangement with the health maintenance organization to render health services to enrolled participants.

(2) All forms of health maintenance agreements issued by the organization to enrolled participants or other marketing documents purporting to describe the organization's comprehensive health care services shall comply with such minimum standards as the commissioner deems reasonable and necessary in order to carry out the purposes and provisions of this chapter, and which fully inform enrolled participants of the health care services to which they are entitled, including any limitations or exclusions thereof, and such other rights, responsibilities and duties required of the contracting health maintenance organization.

(3) Subject to the right of the health maintenance organization to demand and receive a hearing under chapters 48.04 and 34.04 RCW, the commissioner may disapprove a contract form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions or conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract;

(b) If it has any title, heading, or other indication which is misleading;

(c) If purchase of health care services thereunder is being solicited by deceptive advertising;

(d) If the benefits provided therein are unreasonable in relation to the amount charged for the contract;

(e) If it contains unreasonable restrictions on the treatment of patients;

or

(f) If it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter 34.04 RCW.

~~((2))~~ (4) No health maintenance organization authorized under this chapter shall cancel or fail to renew the enrollment on any basis of an enrolled participant or refuse to transfer an enrolled participant from a group to an individual basis for reasons relating solely to age, sex, race, or health

status: **PROVIDED HOWEVER**, That nothing contained herein shall prevent cancellation of a contract with enrolled participants (a) who violate any published policies of the organization which have been approved by the commissioner, or (b) who are entitled to become eligible for medicare benefits and fail to enroll for a medicare supplement plan offered by the health maintenance organization and approved by the commissioner, or (c) for failure of such enrolled participant to pay the approved charge, including cost-sharing, required under such contract, or (d) for a material breach of the health maintenance agreement.

~~((3))~~ (5) No contract form or amendment to an approved contract form shall be used unless it is first filed with the commissioner.

Sec. 5. Section 8, chapter 290, Laws of 1975 1st ex. sess. and RCW 48-46.070 are each amended to read as follows:

(1) The members of the governing body of a health maintenance organization shall be nominated by the voting members or by the enrolled participants and providers, and shall be elected by the enrolled participants or voting members pursuant to the provisions of their bylaws, which shall not be restricted to providers. At least one-third of such body shall consist of consumers who are substantially representative of the enrolled population of such organization: **PROVIDED, HOWEVER**, That any panel medicine plan, qualified pursuant to chapter 41.05 RCW, and licensed as a health care contractor as of January 1, 1975, may have a governing body which shall be advised by an advisory board consisting of at least two-thirds consumers who are elected by the voting members or the enrolled participants and are substantially representative of the enrolled population: **PROVIDED FURTHER**, That any organization that is a qualified health maintenance organization under P.L. 93-222 (Title XIII, section 1310(d) of the public health services act) is deemed to have satisfied these governing body requirements and the requirements of RCW 48.46.030(2).

(2) For health maintenance organizations formed by public institutions of higher education or public hospital districts, the governing body shall be advised by an advisory board consisting of at least two-thirds consumers who are elected by the voting members or the enrolled participants and are substantially representative of the enrolled population.

Sec. 6. Section 9, chapter 290, Laws of 1975 1st ex. sess. and RCW 48-46.080 are each amended to read as follows:

(1) Every health maintenance organization shall annually file with the commissioner a report, under oath, in accordance with the provisions of this chapter.

(2) Such annual report shall be in such form as the commissioner shall prescribe and shall include:

(a) A financial statement of such organization, including its balance sheet and receipts and disbursements for the preceding year, which reflects at a minimum,

(i) all prepayments and other payments received for health care services rendered pursuant to health maintenance agreements;

(ii) expenditures to all categories of health care facilities, providers, insurance companies, or hospital or medical service plan corporations with which such organization has contracted to fulfill obligations to enrolled participants arising out of its health maintenance contracts, together with all other direct expenses including depreciation, enrollment, and commission; and

(iii) expenditures for capital improvements, or additions thereto, including but not limited to construction, renovation, or purchase of facilities and capital equipment;

(b) The number of participants enrolled and terminated during the report period. Every employer offering health care benefits to their employees through a group contract with a health maintenance organization shall furnish said health maintenance organization with a list of their employees enrolled under such plan;

(c) The number of doctors by type of practice who, under contract with or as an employee of the health maintenance organization, furnished health care services to consumers during the past year;

(d) A report of the names and addresses of all officers, directors, or trustees of the health maintenance organization during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals for services to such organization. For partnership and professional service corporations, a report shall be made for partners or shareholders as to any compensation or expense reimbursement received by them for services, other than for services and expenses relating directly for patient care;

~~((d))~~ (e) Such other information relating to the performance of the health maintenance organization or the health care facilities or providers with which it has contracted as reasonably necessary to the proper and effective administration of this chapter, in accordance with rules and regulations; and

~~((e))~~ (f) Disclosure of any financial interests held by officers and directors in any providers associated with the health maintenance organization or any provider of the health maintenance organization.

Sec. 7. Section 18, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.170 are each amended to read as follows:

(1) Solicitation of enrolled participants by a health maintenance organization granted a certificate of registration, or its agents or representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

(2) Any health maintenance organization authorized under this chapter shall not be deemed to be violating any law prohibiting the practice by unlicensed persons of podiatry, chiropractic, dental hygiene, opticianary, dentistry, optometry, osteopathy, pharmacy, medicine and surgery, physical therapy, nursing, or psychology: PROVIDED, That this subsection shall not be construed to expand a health professional's scope of practice or to allow employees of a health maintenance organization to practice as a health professional unless licensed.

(3) Nothing contained in this chapter shall alter any statutory obligation, or rule or regulation promulgated thereunder, in chapter 70.38 or 70.39 RCW.

(4) Any health maintenance organization receiving a certificate of registration pursuant to this chapter shall be exempt from the provisions of chapter 48.05 RCW, ~~((and shall not be required to register as a health care contractor under chapter 48.44 RCW))~~ but shall be subject to ~~((all other provisions of chapters 48.44 and))~~ chapter 70.39 RCW.

NEW SECTION. Sec. 8. There is added to chapter 48.46 RCW a new section to read as follows:

(1) No health maintenance organization nor any individual acting in behalf thereof may guarantee or agree to the payment of future dividends or future refunds of unused charges or savings in any specific or approximate amounts or percentages in respect to any contract being offered to the public, except in a group contract containing an experience refund provision.

(2) The issuance, sale, or offer for sale in this state of securities of its own issue by any health maintenance organization domiciled in this state other than the memberships and bonds of a nonprofit corporation are subject to the provisions of chapter 48.06 RCW relating to obtaining solicitation permits.

NEW SECTION. Sec. 9. There is added to chapter 48.46 RCW a new section to read as follows:

The granting of a certificate of registration to a health maintenance organization is permissive only, and does not constitute an endorsement by the insurance commissioner of any person or thing related to the health maintenance organization, and no person may advertise or display a certificate of registration for use as an inducement in any solicitation.

NEW SECTION. Sec. 10. There is added to chapter 48.46 RCW a new section to read as follows:

Any health maintenance agreement which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both: (1) Incapable of self-sustaining employment by reason of developmental disability or

physical handicap; and (2) chiefly dependent upon the subscriber for support and maintenance, if proof of such incapacity and dependency is furnished to the health maintenance organization by the enrolled participant within thirty-one days of the child's attainment of the limiting age and subsequently as required by the health maintenance organization but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

NEW SECTION. Sec. 11. There is added to chapter 48.46 RCW a new section to read as follows:

Any health maintenance agreement under this chapter which provides coverage for dependent children of the enrolled participant shall provide the same coverage for newborn infants of the enrolled participant from and after the moment of birth. Coverage provided under this section shall include, but not be limited to, coverage for congenital anomalies of such children from the moment of birth.

NEW SECTION. Sec. 12. There is added to chapter 48.46 RCW a new section to read as follows:

Every subscriber of an individual health maintenance agreement may return the agreement to the health maintenance organization or the agent through whom it was purchased within ten days of its delivery to the subscriber if, after examination of the agreement, the subscriber is not satisfied with it for any reason. The health maintenance organization shall refund promptly any fee paid for the agreement. Upon such return of the agreement, it shall be void from the beginning and the parties shall be in the same position as if no agreement had been issued. Notice of the substance of this section shall be printed on the face of each such agreement or be attached thereto.

NEW SECTION. Sec. 13. There is added to chapter 48.46 RCW a new section to read as follows:

Each group agreement for health care services between a health maintenance organization and the person or persons to receive such care under the group agreement shall contain provisions providing benefits for the treatment of alcoholism rendered to such person or persons by an alcoholic treatment facility which is an "approved treatment facility" under RCW 70.96A.020(2); PROVIDED, That this section does not apply to any agreement written as supplemental coverage to any federal or state programs of health care including, but not limited to, Title XVIII health insurance for the aged (commonly referred to as Medicare, Parts A&B), and amendments thereto.

NEW SECTION. Sec. 14. There is added to chapter 48.46 RCW a new section to read as follows:

Any employee whose compensation includes a health maintenance agreement, the cost of which is paid in full or in part by an employer including the state of Washington, its political subdivisions, or municipal corporations, or paid by payroll deduction, may pay the cost as it becomes due directly to the agreement holder whenever the employee's compensation is suspended or terminated directly or indirectly as a result of a strike, lock-out, or other labor dispute, for a period not exceeding six months and at the rate and coverages as the health maintenance agreement provides. During that period of time, such agreement may not be altered or changed. Nothing in this section impairs the right of the health maintenance organization to make normal decreases or increases in the cost of the health maintenance agreement upon expiration and renewal of the agreement, in accordance with the agreement. Thereafter, if such health maintenance agreement is no longer available, the employee shall be given the opportunity to convert as specified in RCW 48.46.065. When the employee's compensation is so suspended or terminated, the employee shall be notified immediately by the agreement holder in writing, by mail addressed to the address last of record with the agreement holder, that the employee may pay the cost of the health maintenance agreement to the agreement holder as it becomes due as provided in this section. Payment must be made when due or the coverage may be terminated by the health maintenance organization.

NEW SECTION, Sec. 15. There is added to chapter 48.46 RCW a new section to read as follows:

No health maintenance organization may deny coverage to a person solely on account of the presence of any sensory, mental, or physical handicap. Nothing in this section may be construed as limiting a health maintenance organization's authority to deny or otherwise limit coverage to a person when the person because of a medical condition does not meet the essential eligibility requirements established by the health maintenance organization for purposes of determining coverage for any person.

NEW SECTION, Sec. 16. There is added to chapter 48.46 RCW a new section to read as follows:

Every authorized health maintenance organization, upon canceling, denying, or refusing to renew any individual health maintenance agreement, shall, upon written request, directly notify in writing the applicant or enrolled participant as appropriate, of the reasons for the action by the health maintenance organization. Any benefits, terms, rates, or conditions of such agreement which are restricted, excluded, modified, increased, or reduced because of the presence of a sensory, mental, or physical handicap shall, upon written request, be set forth in writing and supplied to the individual. The written communications required by this section shall be phrased in simple language which is readily understandable to a person of average intelligence, education, and reading ability.

NEW SECTION. Sec. 17. There is added to chapter 48.46 RCW a new section to read as follows:

With respect to the provisions of health maintenance agreements as set forth in section 16 of this act, there shall be no liability on the part of, and no cause of action of any nature shall arise against, the insurance commissioner, the commissioner's agents, or members of the commissioner's staff, or against any health maintenance organization, its authorized representative, its agents, its employees, for providing to the health maintenance organization information as to reasons for cancellation or refusal to issue or renew, for libel or slander on the basis of any statement made by any of them in any written notice of cancellation or refusal to issue or renew, or in any other communications, oral or written, specifying the reasons for cancellation or refusal to issue or renew or the providing of information pertaining thereto, or for statements made or evidence submitted in any hearing conducted in connection therewith.

NEW SECTION. Sec. 18. There is added to chapter 48.46 RCW a new section to read as follows:

No person may knowingly make, publish, or disseminate any false, deceptive, or misleading representation or advertising in the conduct of the business of a health maintenance organization, or relative to the business of a health maintenance organization or to any person engaged therein.

NEW SECTION. Sec. 19. There is added to chapter 48.46 RCW a new section to read as follows:

No health maintenance organization nor any person representing a health maintenance organization may by misrepresentation or misleading comparisons induce or attempt to induce any member of a health maintenance organization to terminate or retain an agreement or membership in the organization.

NEW SECTION. Sec. 20. There is added to chapter 48.46 RCW a new section to read as follows:

Any health maintenance organization or person who violates any provision of this chapter shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 21. There is added to chapter 48.46 RCW a new section to read as follows:

For the purposes of this chapter, the insurance commissioner shall have the same powers and duties of enforcement as are provided in RCW 48.02.080.

Sec. 22. Section 4, chapter 235, Laws of 1967 and RCW 24.03.015 are each amended to read as follows:

Corporations may be organized under this chapter for any lawful purpose or purposes, including, without being limited to, any one or more of the following purposes: Charitable; benevolent; eleemosynary; educational; civic;

patriotic; political; religious; social; fraternal; literary; cultural; athletic; scientific; agricultural; horticultural; animal husbandry; and professional, commercial, industrial or trade association; but labor unions, cooperative organizations, and organizations subject to any of the provisions of the insurance laws of this state may not be organized under this chapter: PROVIDED, That any not for profit corporation heretofore organized under any act hereby repealed and existing for the purpose of providing health care services as defined in RCW 48.44.010(1) or 48.46.020(1), as now or hereafter amended, shall continue to be organized under this chapter.

Sec. 23. Section 15, chapter 209, Laws of 1969 ex. sess. as last amended by section 11, chapter 120, Laws of 1974 ex. sess. and RCW 41.26.150 are each amended to read as follows:

(1) Whenever any active member, or any member hereafter retired, on account of service, sickness or disability, not caused or brought on by dissipation or abuse, of which the disability board shall be judge, is confined in any hospital or in his home, and whether or not so confined, requires medical services, the employer shall pay for such active or retired member the necessary medical services not payable from some other source as provided for in subsection (2). In the case of active or retired fire fighters the employer may make the payments provided for in this section from the firemen's pension fund established pursuant to RCW 41.16.050 where such fund had been established prior to March 1, 1970: PROVIDED, That in the event the pension fund is depleted, the employer shall have the obligation to pay all benefits payable under chapters 41.16 and 41.18 RCW: PROVIDED FURTHER, That the disability board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the disability board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the disability board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all his rights to benefits under this section for the period of such refusal: AND PROVIDED FURTHER, That the disability board shall designate the medical services available to any sick or disabled member.

(2) The medical services payable under this section will be reduced by any amount received or eligible to be received by the member under workmen's compensation, social security including the changes incorporated under Public Law 89-97 as now or hereafter amended, insurance provided by another employer, other pension plan, or any other similar source. Failure to apply for coverage if otherwise eligible under the provisions of Public Law 89-97 as now or hereafter amended shall not be deemed a refusal of payment of benefits thereby enabling collection of charges under the provisions of this chapter.

(3) Upon making such payments as are provided for in subsection (1), the employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries or for the payment of the cost of medical services in connection with a member's sickness or disability to the extent necessary to recover the amount of payments made by the employer.

(4) Any employer under this chapter, either singly, or jointly with any other such employer or employers through an association thereof as provided for in chapter 48.21 RCW, may provide for all or part of one or more plans of group hospitalization and medical aid insurance to cover any of its employees who are members of the Washington law enforcement officers' and fire fighters' retirement system, and/or retired former employees who were, before retirement, members of said retirement system, through contracts with regularly constituted insurance carriers, with health maintenance organizations as defined in chapter 48.46 RCW, or with health care service contractors as defined in chapter 48.44 RCW. Benefits payable under any such plan or plans shall be deemed to be amounts received or eligible to be received by the active or retired member under subsection (2) of this section.

Sec. 24. Section 20, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.21.200 are each amended to read as follows:

(1) No group disability insurance policy which provides benefits for hospital, medical, or surgical expenses shall be delivered or issued for delivery in this state after September 8, 1975 which contains any provision whereby the insurer may reduce or refuse to pay such benefits otherwise payable thereunder solely on account of the existence of similar benefits provided under any individual disability insurance policy, or under any individual health care service contract.

(2) No group disability insurance policy providing hospital, medical or surgical expense benefits and which contains a provision for the reduction of benefits otherwise payable thereunder on the basis of other existing coverages, shall provide that such reduction will operate to reduce total benefits payable below an amount equal to one hundred percent of total allowable expenses. The commissioner shall by rule establish guidelines for the application of this section, including: (a) The procedures by which persons insured under such policies are to be made aware of the existence of such a provision; (b) the benefits which may be subject to such a provision; (c) the effect of such a provision on the benefits provided; (d) establishment of the order of benefit determination; and (e) reasonable claim administration procedures to expedite claim payments under such a provision.

(3) The provisions of this section shall apply to health care service contractor contracts and health maintenance organization agreements.

NEW SECTION. Sec. 25. Section 6, chapter 240, Laws of 1975 1st ex. sess. and RCW 48.46.050 are each repealed.

Passed the House April 15, 1983.

Passed the Senate April 12, 1983.

Approved by the Governor April 22, 1983.

Filed in Office of Secretary of State April 22, 1983.

CHAPTER 107

[Engrossed Substitute House Bill No. 533]

COLLECTION AGENCIES—BAD DEBT LISTS—COLLECTION PROCEDURES

AN ACT Relating to practices prohibited by collection agencies; and amending section 16, chapter 253, Laws of 1971 ex. sess. as amended by section 5, chapter 254, Laws of 1981 and RCW 19.16.250.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 16, chapter 253, Laws of 1971 ex. sess. as amended by section 5, chapter 254, Laws of 1981 and RCW 19.16.250 are each amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: **PROVIDED**, That nothing in this chapter shall prevent a licensee from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as (~~"deadbeat"~~) "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor's checking account: PROVIDED, That the debtor's identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (9)(c) of this section.

(4) Have in his possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the practice of law.