

government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 17, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 223

[Engrossed House Bill No. 1630]

HEALTH CARE SERVICE CONTRACTORS

AN ACT Relating to health care service contractors; amending RCW 48.44.020, 48.44.030, 48.44.080, 48.44.145, 48.44.290, 48.44.300, 48.44.310, and 48.44.350; reenacting and amending RCW 48.44.010; adding new sections to chapter 48.44 RCW; and declaring an emergency.

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

Sec. 1. Section 1, chapter 268, Laws of 1947 as last amended by section 3, chapter 154, Laws of 1983 and by section 3, chapter 286, Laws of 1983 and RCW 48.44.010 are each reenacted and amended to read as follows:

For the purposes of this chapter:

(1) "Health care services" means and includes medical, surgical, dental, chiropractic, hospital, optometric, podiatric, pharmaceutical, ambulance, custodial, mental health, and other therapeutic services. (~~(Ambulance services licensed in this state, the services of an optometrist licensed by the state of Washington, the services of a podiatrist licensed by the state of Washington, and the services of a pharmacist registered by the state of Washington are also declared to be health care services for the purposes of this chapter.)~~)

(2) (~~"Doctor"~~) "Provider" means any person lawfully licensed or authorized by the state of Washington to render any health care services.

(3) "Health care service contractor" means any corporation, cooperative group, or association, which (~~(corporation, cooperative group, or association)~~) is sponsored by or otherwise intimately connected with a (~~(group of doctors licensed by the state of Washington or by a group of hospitals licensed by the state of Washington, or doctor licensed by the state of Washington, or group of doctors licensed by the state of Washington)~~) provider or group of providers, who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services. (~~(The term also includes any corporation, cooperative group, or association, sponsored by or otherwise intimately connected with a group of pharmacists registered by the state of Washington; or any pharmacist, or group of pharmacists, registered by the~~)

~~state of Washington; who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services:))~~

(4) "Participant" means a ~~((doctor, hospital, or licensed pharmacy, drug store or dispensary))~~ provider, who or which has contracted in writing with a health care service contractor to accept payment from and to look solely to such contractor according to the terms of the subscriber contract for any health care services rendered to a person who has previously paid, or on whose behalf prepayment has been made, to such contractor for such services.

Sec. 2. Section 2, chapter 268, Laws of 1947 as last amended by section 1, chapter 283, Laws of 1985 and RCW 48.44.020 are each amended to read as follows:

(1) Any health care service contractor 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 such health care service contractor providing one or more health care services to such persons and such activity shall not be subject to the laws relating to insurance if the health care services are rendered by the health care service contractor or by a participant.

(2) The commissioner may ~~((require the submission of contract forms for his examination and may))~~ on examination, subject to the right of the health care service contractor to demand and receive a hearing under chapters 48.04 and 34.04 RCW, disapprove any contract form for any of the following grounds:

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

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

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

(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;

(f) If it violates any provision of this chapter;

(g) If it fails to conform to minimum provisions or standards required by regulation made by the commissioner pursuant to chapter 34.04 RCW; ~~((or))~~

(h) If any contract for health care services with any state agency, division, subdivision, board or commission or with any political subdivision,

municipal corporation, or quasi-municipal corporation fails to comply with state law.

Sec. 3. Section 3, chapter 268, Laws of 1947 as last amended by section 22, chapter 339, Laws of 1981 and RCW 48.44.030 are each amended to read as follows:

If any of the health care services which are promised in any such agreement are not to be performed by the health care service contractor, or by a participant, such activity shall not be subject to the laws relating to insurance, ~~((but such agreement shall contain))~~ provided provision is made for reimbursement or indemnity of the persons ((paying)) who have previously paid, or on whose behalf prepayment has been made, for such services ((which agreement)). Such reimbursement or indemnity shall either be underwritten by an insurance company authorized to write accident, health and disability insurance in the state or guaranteed by a surety company authorized to do business in this state, or guaranteed by a deposit of cash or securities eligible for investment by insurers pursuant to chapter 48.13 RCW, with the insurance commissioner, as hereinafter provided. If the ((agreement)) reimbursement or indemnity is underwritten by an insurance company, the contract or policy of insurance may designate the health care service contractor as the named insured, but shall be for the benefit of the persons who have previously paid, or on whose behalf prepayment has been made, for ((or contracted for)) such health care services. If the ((agreement)) reimbursement or indemnity is guaranteed by a surety company, the surety bond shall designate the state of Washington as the named obligee, but shall be for the benefit of the persons who have previously paid, or on whose behalf prepayment has been made, for ((or contracted for)) such health care services, and shall be in such amount as the insurance commissioner shall direct, but in no event in a sum greater than the amount of one hundred fifty thousand dollars or ((one-twelfth of the total sum of money received by the health care service contractor during the preceding twelve months as prepayment for health care services)) the amount necessary to cover incurred but unpaid reimbursement or indemnity benefits as reported in the last annual statement filed with the insurance commissioner, and adjusted to reflect known or anticipated increases or decreases during the ensuing year, plus an amount of unearned prepayments applicable to reimbursement or indemnity benefits satisfactory to the insurance commissioner, whichever amount is greater. A copy of such insurance policy or surety bond, as the case may be, and any modification thereof, shall be filed with the insurance commissioner. If the ((agreement)) reimbursement or indemnity is guaranteed by a deposit of cash or securities, such deposit shall be in such amount as the insurance commissioner shall direct, but in no event in a sum greater than the amount of one hundred fifty thousand dollars or ((one-twelfth of the total sum of money received by the health care service contractor during the preceding twelve months as prepayment for

health care services)) the amount necessary to cover incurred but unpaid reimbursement or indemnity benefits as reported in the last annual statement filed with the insurance commissioner, and adjusted to reflect known or anticipated increases or decreases during the ensuing year, plus an amount of unearned prepayments applicable to reimbursement or indemnity benefits satisfactory to the insurance commissioner, whichever amount is greater. Such cash or security deposit shall be held in trust by the insurance commissioner and shall be for the benefit of the persons who have previously paid ((for or contracted)), or on whose behalf prepayment has been made, for such health care services.

Sec. 4. Section 5, chapter 197, Laws of 1961 as amended by section 3, chapter 87, Laws of 1965 and RCW 48.44.080 are each amended to read as follows:

Every health care service contractor shall file with its annual statement with the insurance commissioner ((lists)) a master list of the participants with whom or with which such health care service contractor has executed contracts of participation, certifying that each such participant has executed such contract of participation. The health care service contractor shall ((immediately)) on the first day of each month notify the insurance commissioner in writing in case of the termination of any such contract, and of any participant who has entered into a participating contract during the preceding month.

***Sec. 5. Section 12, chapter 115, Laws of 1969 as amended by section 1, chapter 63, Laws of 1983 and RCW 48.44.145 are each amended to read as follows:**

(1) The commissioner may make an examination of the operations of any health care service contractor as often as he deems necessary in order to carry out the purposes of this chapter.

(2) Every health care service contractor shall submit its books and records relating to its operation for financial condition and market conduct examinations and in every way facilitate them. For the purpose of examinations, the commissioner may issue subpoenas, administer oaths, and examine the officers and principals of the health care service contractor.

(3) The commissioner may elect to accept and rely on audit reports made by an independent certified public accountant for the health care service contractor in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his report of the examination.

(4) Health care service contractors licensed in the state shall be equitably assessed to cover the cost of financial condition and market conduct examinations. The assessments shall be levied not less frequently than once every twelve months and shall be in an amount expected to fund the examinations, including a reasonable margin for cost variations. The assessments shall be established by rules promulgated by the commissioner but shall not

exceed one-half cent per month per person entitled to health care services pursuant to an agreement under RCW 48.44.020(1), excluding such persons who are not residents of this state. The commissioner may assess a contractor on any basis that is applicable to all similarly situated contractors and is considered equitable. Assessment receipts shall be deposited in the general fund, shall be accounted for separately, and shall be used for the sole purpose of funding the examinations authorized in subsection (1) of this section. Amounts remaining in the separate account at the end of a biennium shall be applied to reduce the assessments in the succeeding biennium.

(5) Whenever any health care service contractor applies for initial admission, the commissioner may make, or cause to be made, an examination of the applicant's business and affairs. Whenever such an examination is made, all of the provisions of chapter 48.03 RCW not inconsistent with this chapter shall be applicable. In lieu of making an examination himself the commissioner may, in the case of a foreign health care service contractor, accept an examination report of the applicant by the regulatory official in its state of domicile.

*Sec. 5 was vetoed, see message at end of chapter.

Sec. 6. Section 1, chapter 175, Laws of 1981 and RCW 48.44.290 are each amended to read as follows:

Notwithstanding any provision of this chapter, for any health care service contract thereunder which is entered into or renewed after July 26, 1981, benefits shall not be denied under such contract for any health care service performed by a holder of a license issued pursuant to chapter 18.88 RCW if (1) the service performed was within the lawful scope of such person's license, and (2) such contract would have provided benefits if such service had been performed by a holder of a license issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That no provision of chapter 18.71 RCW shall be asserted to deny benefits under this section(~~(: AND PROVIDED FURTHER, That no part of this section shall apply to agreements entered into or renewed by a health maintenance organization which provides comprehensive health care services directly to enrolled participants of such organization on a group practice per capita prepayment basis, and which is a health maintenance organization registered under chapter 48.46 RCW or a federally qualified health maintenance organization)~~)).

The provisions of this section are intended to be remedial and procedural to the extent that they do not impair the obligation of any existing contract.

Sec. 7. Section 2, chapter 154, Laws of 1983 and RCW 48.44.300 are each amended to read as follows:

Benefits shall not be denied under a contract for any health care service performed by a holder of a license issued under chapter 18.22 RCW if

(1) the service performed was within the lawful scope of the person's license, and (2) the contract would have provided benefits if the service had been performed by a holder of a license issued under chapter 18.71 RCW. There shall not be imposed upon one class of doctors providing health care services as defined by this chapter any requirement that is not imposed upon all other doctors providing the same or similar health care services within the scope of their license. ~~((This section does not apply to agreements entered into or renewed by a health maintenance organization which provides comprehensive health care services directly to enrolled participants of the organization on a group practice per capita prepayment basis and which is a health maintenance organization registered under chapter 48.46 RCW or a federally qualified health maintenance organization.))~~

The provisions of this section are intended to be procedural to the extent that they do not impair the obligation of any existing contract.

Sec. 8. Section 2, chapter 286, Laws of 1983 and RCW 48.44.310 are each amended to read as follows:

(1) Each group contract for comprehensive health care service which is entered into, or renewed, on or after September 8, 1983, between a health care service contractor and the person or persons to receive such care shall offer coverage for chiropractic care on the same basis as any other care.

(2) A patient of a chiropractor shall not be denied benefits under a contract because the practitioner is not licensed under chapter 18.57 or 18.71 RCW.

~~(3) ((This section shall not apply to agreements entered into or renewed by a health maintenance organization as defined in RCW 48.46.020(1) or a federally qualified health maintenance organization.~~

~~(4))~~ This section shall not apply to a group contract for comprehensive health care services entered into in accordance with a collective bargaining agreement between management and labor representatives. Benefits for chiropractic care shall be offered by the employer in good faith on the same basis as any other care as a subject for collective bargaining for group contracts for health care services.

Sec. 9. Section 6, chapter 202, Laws of 1983 and RCW 48.44.350 are each amended to read as follows:

(1) No person having any authority in the investment or disposition of the funds of a ~~((domestic))~~ health care service contractor and no officer or director of a health care service contractor shall accept, except ~~((as agent))~~ for the health care service contractor, or be the beneficiary of any fee, brokerage, gift, commission, or other emolument because of any sale of health care service agreements or any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the health care service contractor, or be pecuniarily interested therein in any capacity; except, that such a person may procure a loan from the health care service contractor directly upon

approval by two-thirds of its directors and upon the pledge of securities eligible for the investment of the health care service contractor's funds under this title.

(2) The commissioner may, by regulations, from time to time, define and permit additional exceptions to the prohibition contained in subsection (1) of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the health care service contractor, or to a corporation or firm in which the director is interested, for necessary services performed or sales or purchases made to or for the health care service contractor in the ordinary course of the health care service contractor's business and in the usual private professional or business capacity of the director or the corporation or firm.

NEW SECTION. Sec. 10. A new section is added to chapter 48.44 RCW to read as follows:

If an individual health care service agreement is issued on any basis other than as applied for, an endorsement setting forth such modification must accompany and be attached to the agreement. No agreement shall be effective unless the endorsement is signed by the applicant, and a signed copy thereof returned to the health care service contractor.

NEW SECTION. Sec. 11. A new section is added to chapter 48.44 RCW to read as follows:

After July 1, 1986, or on the next renewal date of the agreement, whichever is later, every health care service agreement issued, amended, or renewed for an individual and his or her dependents shall contain provisions to assure that the covered spouse and/or dependents, in the event that any cease to be a qualified family member by reason of termination of marriage or death of the principal enrollee, shall have the right to continue the health care service agreement without a physical examination, statement of health, or other proof of insurability.

NEW SECTION. Sec. 12. A new section is added to chapter 48.44 RCW to read as follows:

No health care service contractor shall terminate any person covered under a health care service contract because of a change in the physical or mental condition or health of such person: PROVIDED, That, after approval of the insurance commissioner, a health care service contractor may discharge its obligation to continue coverage for such person by obtaining coverage with another health care service contractor, or with an insurer which is comparable in terms of premiums and benefits.

****NEW SECTION. Sec. 13. Section 5 of this act, which amends RCW 48.44.145, shall not take effect if RCW 48.44.145 is amended by ESB 3636 prior to July 1, 1986.***

***Sec. 13 was vetoed, see message at end of chapter.**

NEW SECTION. Sec. 14. 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 11, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor April 2, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 2, 1986.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 5 and 13, Engrossed House Bill No. 1630, entitled:

"AN ACT Relating to health care service contractors."

Sections 5 and 13 of this bill conflict with amendments to RCW 48.44.145 contained in Engrossed Senate Bill No. 3636. The amendments in Engrossed Senate Bill No. 3636 are part of a new method of funding the Office of the Insurance Commissioner and are thus the appropriate amendments to RCW 48.44.145.

With the exception of sections 5 and 13, Engrossed House Bill 1630 is approved."

CHAPTER 224

[Substitute House Bill No. 1400] INDETERMINATE SENTENCING

AN ACT Relating to indeterminate sentencing; amending RCW 9.95.001, 9.95.003, 9.95.005, 9.95.007, 9.95.009, 9.95.015, 9.95.040, and 9.95.052; adding new sections to chapter 9.95 RCW; creating a new section; repealing RCW 9.95.001, 9.95.003, 9.95.005, 9.95.007, 9.95.009, 9.95.—, 9.95.015, and 9.95.—; repealing section 39, chapter 137, Laws of 1981 (uncodified); repealing section 1 of this 1986 act (uncodified); and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that a process for review of duration of confinement and release decisions for persons convicted of crimes committed before July 1, 1984, must be available after the board of prison terms and paroles ceases to exist. A transitional agency, the indeterminate sentence review board, is created to review such decisions until 1992 when all of the functions, powers, and duties previously performed by the indeterminate sentence review board will be transferred to the superior courts of the state of Washington.

Sec. 2. Section 1, chapter 114, Laws of 1935 and section 1, chapter 47, Laws of 1947 and RCW 9.95.001 are each amended to read as follows:

((There shall be a board of prison terms and paroles:)) On July 1, 1986, the board of prison terms and paroles shall be redesignated the indeterminate sentence review board. The newly designated board shall retain the same membership and staff as the previously designated board of prison terms and paroles. References to "the board" or "board of prison terms and