

(3) (a) Except as provided in (b) of this subsection, this section shall not apply to telefacsimile messages sent to a recipient with whom the initiator has had a prior contractual or business relationship.

(b) A person shall not initiate an unsolicited telefacsimile message under the provisions of (a) of this subsection if the person knew or reasonably should have known that the recipient is a governmental entity.

(4) Notwithstanding subsection (3) of this section, it is unlawful to initiate any telefacsimile message to a recipient who has previously sent a written or telefacsimile message to the initiator clearly indicating that the recipient does not want to receive telefacsimile messages from the initiator.

(5) The unsolicited transmission of telefacsimile messages promoting goods or services for purchase by the recipient is a matter affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. The transmission of unsolicited telefacsimile messages is not reasonable in relation to the development and preservation of business. A violation of this section is an unfair or deceptive act in trade or commerce for the purpose of applying the consumer protection act, chapter 19.86 RCW. Damages to the recipient of telefacsimile messages in violation of this section are five hundred dollars or actual damages, whichever is greater.

(6) Nothing in this section shall be construed to prevent the Washington utilities and transportation commission from adopting additional rules regulating transmissions of telefacsimile messages.

Passed the House March 5, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 27, 1990.

Filed in Office of Secretary of State March 27, 1990.

CHAPTER 222

[House Bill No. 2411]

HEALTH CARE AUTHORITY

AN ACT Relating to the health care authority; amending RCW 41.04.205, 41.05.011, 41.05.021, 41.05.031, 41.05.090, and 48.42.070; and adding a new section to chapter 41.05 RCW.

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

Sec. 1. Section 1, chapter 106, Laws of 1975-'76 2nd ex. sess. as amended by section 17, chapter 107, Laws of 1988 and RCW 41.04.205 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 41.04.180, the employees, with their dependents, of any county, municipality, or other political subdivision of this state shall be eligible to participate in any insurance or self-insurance program administered under chapter 41.05 RCW if the legislative authority of any such county, municipality, or other political subdivisions of

this state determines a transfer to an insurance or self-insurance program administered under chapter 41.05 RCW should be made: PROVIDED, That this section shall have no application to members of the law enforcement officers' and fire fighters' retirement system under chapter 41.26 RCW: PROVIDED FURTHER, That in the event of a special district employee transfer pursuant to this section, members of the governing authority shall be eligible to be included in such transfer if such members are authorized by law as of June 25, 1976 to participate in the insurance program being transferred from and subject to payment by such members of all costs of insurance for members(~~(-PROVIDED FURTHER, That contributions by any county, municipality, or other political subdivision to which coverage is extended after October 1, 1988, shall not receive the benefit of any surplus funds attributable to premiums paid prior to the date upon which coverage is extended))~~).

(2) When the legislative authority of a county, municipality, or other political subdivision determines to so transfer, the state health care authority shall:

(a) Establish the conditions under which the transfer may be made, which shall include the requirements that:

(i) All the eligible employees of the political subdivision transfer as a unit, and

(ii) The political subdivision involved obligate itself to make employer contributions in an amount at least equal to those provided by the state as employer; and

(b) Hold public hearings on the application for transfer; and

(c) Have the sole right to reject the application.

Approval of the application by the state health care authority shall effect a transfer of the employees involved to the insurance, self-insurance, or health care program applied for.

Sec. 2. Section 3, chapter 107, Laws of 1988 and RCW 41.05.011 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Administrator" means the administrator of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurance carrier as defined in chapter 48.21 or 48.22 RCW, a health care service contractor as defined in chapter

48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state (~~((transfers any of its insurance programs to an insurance program administered by the authority pursuant to))~~) seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205, and employees of a school district if the board of directors of the school district seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority as provided in RCW 28A.58.420.

(7) "Board" means the state employees' benefits board established under RCW 41.05.055.

Sec. 3. Section 4, chapter 107, Laws of 1988 and RCW 41.05.021 are each amended to read as follows:

The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The primary duties of the authority shall be to administer state employees' insurance benefits and to study state-purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care. The authority's duties include, but are not limited to, the following:

(1) To administer a health care benefit program for employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(2) To analyze ~~((the))~~ state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(a) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(b) Utilization of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods;

(c) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(d) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

(e) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031;

(3) To analyze areas of public and private health care interaction; ~~((and))~~

(4) To provide information and technical and administrative assistance to the board;

(5) To review and approve or deny applications from counties, municipalities, other political subdivisions of the state, and school districts to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205 and 28A-.58.420, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(6) To appoint a health care policy technical advisory committee as required by RCW 41.05.150; and

(7) To promulgate and adopt rules consistent with this chapter as described in RCW 41.05.160.

Sec. 4. Section 5, chapter 107, Laws of 1988 and RCW 41.05.031 are each amended to read as follows:

The following state agencies are directed to cooperate with the authority to establish appropriate health care information systems in their programs: The department of social and health services, the department of health, the department of labor and industries, the basic health plan, the department of veterans affairs, the department of corrections, and the superintendent of public instruction.

The authority, in conjunction with these agencies, shall determine:

(1) Definitions of health care services;

(2) Health care data elements common to all agencies;

- (3) Health care data elements unique to each agency; and
- (4) A mechanism for program and budget review of health care data.

Sec. 5. Section 3, chapter 125, Laws of 1979 and RCW 41.05.090 are each amended to read as follows:

(1) When ((~~an~~)) an employee, spouse, or covered dependent becomes ineligible under the state plan and wishes to continue coverage on an individual basis with the same provider under the state plan, such employee, spouse, or covered dependent shall be entitled to immediately transfer and shall not be required to undergo any waiting period before obtaining individual coverage.

(2) Entitlement to a conversion contract under the terms of this section shall not apply to any employee, spouse, or covered dependent who is:

(a) Eligible for federal medicare coverage; or

(b) Covered under another group plan, policy, contract, or agreement providing benefits for hospital or medical care.

(3) Entitlement to conversion under the terms of this section shall not apply to any employee terminated for misconduct, except that conversion shall be offered to the spouse and covered dependents of the terminated employee.

NEW SECTION. Sec. 6. A new section is added to chapter 41.05 RCW to read as follows:

When soliciting proposals for the purpose of awarding contracts for goods or services, the administrator shall, upon written request by the bidder, exempt from public inspection and copying such proprietary data, trade secrets, or other information contained in the bidder's proposal that relate to the bidder's unique methods of conducting business or of determining prices or premium rates to be charged for services under terms of the proposal.

**Sec. 7. Section 2, chapter 56, Laws of 1984 as last amended by section 221, chapter 9, Laws of 1989 1st ex. sess. and RCW 48.42.070 are each amended to read as follows:*

Every person or organization which seeks sponsorship of a legislative proposal which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, shall submit a report to the legislative committees having jurisdiction, assessing both the social and financial impacts of such coverage, including the efficacy of the treatment or service proposed, according to the guidelines enumerated in RCW 48.42.080. Copies of the report shall be sent to the ~~((state department of health))~~ health care authority for review and comment. The ~~((state department of health))~~ health care authority shall make recommendations based on the report ~~((to the extent requested by the legislative~~

committees)). The legislature shall consider the report of the health care authority prior to acting on a legislative proposal that requires or modifies mandated benefits or mandated offerings.

*Sec. 7 was vetoed, see message at end of chapter.

Passed the House March 5, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 27, 1990, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 27, 1990.

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

"I am returning herewith, without my approval as to section 7, House Bill No. 2411 entitled:

"AN ACT Relating to the health care authority."

Section 7 of the bill seeks to transfer responsibility for review of proposals for mandated health care coverage from the Department of Health to the Health Care Authority.

Less than one year ago, the Department of Health was given the responsibility for formulating the executive's policy recommendations for health care in the state. The Health Care Authority's primary responsibility is to implement the state's health care policy for public employees by purchasing affordable health care programs.

In order to avoid an appearance of conflict of interest by a major purchaser of health care programs, it is appropriate at this time that the agency responsible for policy recommendations related to mandated health coverages and the agency responsible for purchasing programs reflecting those mandates remain independent. Section 7 would dissolve this independence.

Further, the primary responsibility for the Department of Health is the "general oversight and planning for all of the state's activities as they relate to the health of its citizenry." The duty to review and comment upon proposed mandates falls within that mission and I see no reason, at this time, to shift that duty from the Department of Health.

For these reasons, I have vetoed section 7 of the bill.

With the exception of section 7, House Bill No. 2411 is approved."

CHAPTER 223

[Substitute House Bill No. 1597]

GEOLOGY—EVALUATION OF NEED FOR REGULATION

AN ACT Relating to the practice of geology; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that it may be in the public interest to establish qualifications for geologists and for the practice of professional geological work.

NEW SECTION. Sec. 2. The department of licensing shall conduct an evaluation of the practice of professional geological work and make recommendations to the legislature as to what extent it is in the public interest to