
SUBSTITUTE SENATE BILL 5140

State of Washington

67th Legislature

2021 Regular Session

By Senate Health & Long Term Care (originally sponsored by Senators Kuderer, Frockt, Conway, Das, Dhingra, Hasegawa, Hunt, Lovelett, Randall, Saldaña, Stanford, Wellman, and Wilson, C.)

1 AN ACT Relating to protecting pregnancy and miscarriage-related
2 patient care; adding a new section to chapter 43.70 RCW; adding a new
3 chapter to Title 70 RCW; and creating a new section.

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

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

8 (1) "Department" means the department of health.

9 (2) "Health care entity" means an entity that supervises,
10 controls, grants privileges to, directs the practice of, or directly
11 or indirectly restricts the practice of, a health care provider.

12 (3) "Health care provider" has the same meaning as in RCW
13 70.02.010.

14 NEW SECTION. **Sec. 2.** (1) Except as provided in subsection (2)
15 of this section, if a health care provider is acting in good faith,
16 within the provider's scope of practice, education, training, and
17 experience and within the accepted standard of care, a health care
18 entity may not prohibit the health care provider from providing
19 health care services related to complications of pregnancy, including
20 but not limited to health services related to miscarriage management

1 and treatment for ectopic pregnancies, in cases in which failure to
2 provide the service would violate the accepted standard of care or
3 when the patient presents a medical condition manifesting itself by
4 acute symptoms of sufficient severity such that the absence of
5 medical attention could reasonably be expected to pose a risk:

6 (a) To the patient's life; or

7 (b) Of irreversible complications or impairment to the patient's
8 bodily functions or any bodily organ or part.

9 (2) Nothing in this section prohibits a health care entity from
10 limiting a health care provider's practice for purposes of:

11 (a) Complying with the network or utilization review requirements
12 of any program or entity authorized by state or federal law to
13 provide insurance coverage for health care services to enrollees; or

14 (b) Quality control and patient safety, including when quality
15 control or patient safety issues are identified pursuant to peer
16 review.

17 (3) A health care entity may not discharge, demote, suspend,
18 discipline, or otherwise discriminate against a health care provider
19 for providing services in compliance with this section.

20 NEW SECTION. **Sec. 3.** A patient, a health care provider, or an
21 individual, who is aggrieved by a violation of section 2 of this act,
22 may bring a civil action against a health care entity to enjoin
23 further violations, to recover damages, or both. The prevailing party
24 in such action is entitled to recover costs of litigation and
25 reasonable attorneys' fees.

26 NEW SECTION. **Sec. 4.** Beginning March 1, 2022, a health care
27 entity shall provide the information prepared by the department under
28 section 5 of this act at the time of hiring, contracting with, or
29 privileging health care providers and staff, and on a yearly basis
30 thereafter.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.70
32 RCW to read as follows:

33 By December 31, 2021, the department shall design, prepare, and
34 make available online, written materials to clearly inform health
35 care providers and staff of the provisions of, and authority to act
36 under, chapter 70.--- RCW (the new chapter created in section 7 of
37 this act).

1 NEW SECTION. **Sec. 6.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state, the conflicting part of
4 this act is inoperative solely to the extent of the conflict and with
5 respect to the agencies directly affected, and this finding does not
6 affect the operation of the remainder of this act in its application
7 to the agencies concerned. Rules adopted under this act must meet
8 federal requirements that are a necessary condition to the receipt of
9 federal funds by the state.

10 NEW SECTION. **Sec. 7.** Sections 1 through 4 of this act
11 constitute a new chapter in Title 70 RCW.

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