

TO: Washington State Society of Anesthesiologists  
FROM: Cliff Webster  
RE: 2019 Final Legislative Report  
DATE: May 3, 2019

**Charges for Out-of-Network Health Care Services (Balance Billing):** HB 1065 was introduced at the request of the Insurance Commissioner. Among its provisions, the measure: sets new limits on the practice of balance billing by out-of-network providers and facilities; and authorizes arbitration of balance billing disputes between health carriers and out-of-network providers or facilities. WSSA worked closely with the Washington State Medical Association (WSMA) to ensure the final bill includes:

- No statutory reimbursement rate or mechanism for out-of-network payment and requires carriers to reimburse out-of-network physicians at a commercially reasonable rate;
- Physician-friendly dispute resolution process with no reference to Medicare rates as an arbitration criterion, and claims bundling allowed over a two-month timeframe;
- Addressing ERISA issues with an ability for self-insured health plans to opt in to complying with the law, and a mechanism for physicians to verify the nature of a health plan (i.e. whether it complies with the law and/or whether a patient can be balance billed);
- Direct payment from carriers to physicians (prohibiting carriers routing payment through patients);
- Strengthened network adequacy requirements for carriers; and
- Workable requirements for physician groups pertaining to transparency and enforcement of the law.

HB 1065 passed the House of Representatives 95-0 and the Senate 47-0. The governor is expected to approved the bill on May 21. Most of the provisions of the bill take effect on January 1, 2020.

### **Business Practice Issues**

**Public-option for Individual Market Health Care Coverage:** WSSA joined WSMA in opposing Governor Inslee's request-legislation to authorize the Washington Health Benefit Exchange to develop and offer standardized health plans for the individual market. Over the objections of WSMA and WSSA, the final bill relies on rate setting for establishing physician reimbursements and provides a cap on provider reimbursements based on reference to Medicare rates. SB 5526 passed the Senate 36-13 and the House 54-38.

**Increased Business & Occupation Tax:** HB 2158 imposes a permanent 20-percent business and occupation tax (B&O) surcharge on the gross receipts of non-hospital based physicians and other medical services, and on other professional and service businesses. The B&O tax rate for these businesses increases from 1.5 percent to 1.8 percent of gross revenues. The nearly \$400 million in new revenue the bill is expected to generate in the 2019-2021 biennium is put in an off-general fund account to be used to support college and apprenticeship programs. The bill passed the House 52-46

and the Senate 25-22, on what were essentially party-line votes. The new surcharge takes effect on January 1, 2020.

Expanded Lawsuits Claiming Negligent Injury or Death: WSSA joined other medical specialty societies and the WSMA in opposing SB 5163, which significantly expands the beneficiaries and allowable damages under the state's current wrongful death and survival statutes. Physicians and hospitals sought unsuccessfully to cap the monetary liability of any defendant in this new class of cases to the defendant's actual share of fault. Amendments to eliminate joint-and-several liability for the deep pocket defendants were offered in both the Senate and House of Representatives, but defeated on narrow votes. SB 5163 has been approved by the governor, becomes effective on July 28, 2019, and its provisions are retroactive.

Health Care Marketplace Mergers & Acquisitions: Under HB 1607, beginning on January 1, 2020, mergers, acquisitions, or contracting affiliations involving hospitals, hospital systems, and provider organizations must be reported to the state attorney general 60 days before the effective date of a proposed change of governance or operations. The bill passed the House 63-35 and the Senate 29-19; and it has been approved by the governor.

Medical Debt: Among other provisions, HB 1531 prohibits the sale or assignment of medical debt to a collection agency until 120 days after the initial billing statement is sent to the patient or responsible party. The bill takes effect on July 28, 2019.

### **Scope of Practice**

Physician Assistants: HB 5411 proposed to allow physician assistants to enter into a practice agreement with one or more participating physicians and to practice pursuant to the agreement without supervision from a physician. The bill died in the Senate Health Care Committee after receiving a public hearing.

Naturopathy: HB 1630 proposed to allow a naturopath to prescribe any legend drug or Schedule III through V controlled substances, under certain circumstances. WSSA opposed the bill, which died in the House Rules Committee, after being approved by the House Health Care Committee by a 11-4 vote.

For more information about these bills, visit <https://apps.leg.wa.gov/billinfo/>