
SUBSTITUTE HOUSE BILL 1638

State of Washington

58th Legislature

2003 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Schual-Berke, Darneille, Conway, Hankins, McIntire, Pflug, Kenney, Kessler, Moeller, Edwards, Simpson, Morrell, Skinner, Upthegrove, Rockefeller and Wood)

READ FIRST TIME 03/04/2003.

1 AN ACT Relating to hepatitis C; amending RCW 49.60.172 and
2 49.60.174; adding new sections to chapter 70.54 RCW; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54 RCW
6 to read as follows:

7 (1) The secretary of health shall design a state plan for the
8 prevention, education, and treatment of hepatitis C by January 1, 2004.
9 In developing the plan, the secretary shall seek the input of:

- 10 (a) The public;
- 11 (b) Patient groups and organizations;
- 12 (c) Relevant state agencies that provide services to persons with
13 hepatitis C or have functions that involve hepatitis C;
- 14 (d) Local health departments;
- 15 (e) Public health and clinical laboratories;
- 16 (f) Providers of services to persons with hepatitis C;
- 17 (g) Research scientists;
- 18 (h) The University of Washington;
- 19 (i) Representatives from the pharmaceutical industry; and

1 (j) The Washington state medical association.

2 (2) The plan shall include implementation recommendations in the
3 following areas:

4 (a) Hepatitis C virus prevention and treatment strategies for
5 groups at risk for hepatitis C with an emphasis towards those groups
6 that are disproportionately affected by hepatitis C, including persons
7 infected with HIV, veterans, racial or ethnic minorities that suffer a
8 higher incidence of hepatitis C, and persons who engage in high-risk
9 behavior, such as intravenous drug use;

10 (b) Educational programs to promote public awareness about
11 bloodborne infections and knowledge about risk factors, the value of
12 early detection, screening, services, and available treatment options
13 for hepatitis C;

14 (c) Education curricula for appropriate health and health-related
15 providers covered by the uniform disciplinary act, chapter 18.130 RCW;

16 (d) Training courses for persons providing hepatitis C counseling,
17 public health clinic staff, and any other appropriate provider, which
18 shall focus on disease prevention, early detection, and intervention;

19 (e) Capacity for voluntary hepatitis C testing programs to be
20 performed at facilities providing voluntary HIV testing under chapter
21 70.24 RCW;

22 (f) A comprehensive model for the prevention and management of
23 hepatitis C; and

24 (g) Sources and availability of funding to implement the plan.

25 (3) The secretary of health shall submit the completed state plan
26 to the legislature by January 1, 2004. After the initial state plan is
27 submitted, the department shall update the state plan biennially and
28 shall submit a progress report on the implementation of the plan to the
29 governor and make it available to other interested parties. The update
30 and progress reports are due December 1, 2004, and every two years
31 thereafter.

32 (4) The state plan developed pursuant to this section shall be
33 developed using only available federal and private sources, including
34 grants.

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.54 RCW
36 to read as follows:

37 Implementation of the plan in section 1 of this act is subject to

1 the availability of amounts appropriated for the specific purposes of
2 section 1 of this act. However, to the extent that funding is
3 available from federal, local, private, and other nonstate sources, the
4 department of health may implement the plan, giving priority to items
5 described in section 1(2) (b) through (d) of this act.

6 **Sec. 3.** RCW 49.60.172 and 1988 c 206 s 903 are each amended to
7 read as follows:

8 (1) No person may require an individual to take an HIV test, as
9 defined in chapter 70.24 RCW, or hepatitis C test, as a condition of
10 hiring, promotion, or continued employment unless the absence of HIV or
11 hepatitis C infection is a bona fide occupational qualification for the
12 job in question.

13 (2) No person may discharge or fail or refuse to hire any
14 individual, or segregate or classify any individual in any way which
15 would deprive or tend to deprive that individual of employment
16 opportunities or adversely affect his or her status as an employee, or
17 otherwise discriminate against any individual with respect to
18 compensation, terms, conditions, or privileges of employment on the
19 basis of the results of an HIV test or hepatitis C test unless the
20 absence of HIV or hepatitis C infection is a bona fide occupational
21 qualification of the job in question.

22 (3) The absence of HIV or hepatitis C infection as a bona fide
23 occupational qualification exists when performance of a particular job
24 can be shown to present a significant risk, as defined by the board of
25 health by rule, of transmitting HIV or hepatitis C infection to other
26 persons, and there exists no means of eliminating the risk by
27 restructuring the job.

28 (4) For the purpose of this chapter, any person who is actually
29 infected with HIV or hepatitis C, but is not disabled as a result of
30 the infection, shall not be eligible for any benefits under the
31 affirmative action provisions of chapter 49.74 RCW solely on the basis
32 of such infection.

33 (5) Employers are immune from civil action for damages arising out
34 of transmission of HIV or hepatitis C to employees or to members of the
35 public unless such transmission occurs as a result of the employer's
36 gross negligence.

1 **Sec. 4.** RCW 49.60.174 and 1997 c 271 s 6 are each amended to read
2 as follows:

3 (1) For the purposes of determining whether an unfair practice
4 under this chapter has occurred, claims of discrimination based on
5 actual or perceived HIV or hepatitis C infection shall be evaluated in
6 the same manner as other claims of discrimination based on sensory,
7 mental, or physical disability; or the use of a trained dog guide or
8 service animal by a disabled person.

9 (2) Subsection (1) of this section shall not apply to transactions
10 with insurance entities, health service contractors, or health
11 maintenance organizations subject to RCW 49.60.030(1)(e) or 49.60.178
12 to prohibit fair discrimination on the basis of actual HIV or actual
13 hepatitis C infection status when bona fide statistical differences in
14 risk or exposure have been substantiated.

15 (3) For the purposes of this chapter((7)):

16 (a) "HIV" means the human immunodeficiency virus, and includes all
17 HIV and HIV-related viruses which damage the cellular branch of the
18 human immune system and leave the infected person immunodeficient; and

19 (b) "Hepatitis C" means the hepatitis C virus of any genotype.

20 NEW SECTION. **Sec. 5.** Section 1 of this act does not create a
21 private right of action.

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