



# INITIATIVE MEASURE 92

## TO THE LEGISLATURE

NOTE: The ballot title and explanatory statement were written by the Attorney General as required by state law. The complete text of Initiative Measure 92 begins on page 16.

### Official Ballot Title:

Shall it be a consumer protection violation for doctors treating Medicare eligible patients to charge more than Medicare's reasonable charges?

### The law as it now exists:

Medicare is a federal health insurance program under the Medicare law (Title XVIII of the Social Security Act). The administration of the Medicare program establishes what are entitled "allowable charges" (labeled by law as "reasonable charges") to determine the base for computing the payment by Medicare for medical services to

Medicare patients. At the present time, Medicare most frequently pays 80 percent of Medicare's established charges.

No state law limits the charges that can be made by physicians and other health care providers to Medicare patients. Physicians and other health care providers can charge Medicare patients more than the federally designated "allowable/reasonable charge." However, physicians who choose to contract as a "participating physician" in the federal Medicare assignment repayment program cannot charge any Medicare eligible patient more than the Medicare established charge. Physicians who do not contract but do directly submit billings to Medicare for individual patients cannot charge those individual patients more than the Medicare established charge.

Physicians are not required to enroll as providers in the Medicare program, nor to participate in the Medicare assignment repayment program. If the physician does not so participate, the patient, or the entity paying for the service, directly seeks partial reimbursement from Medicare for the medical services.

### The effect of Initiative Measure 92, if approved into law:

The State Consumer Protection Act would be amended to declare it to be an "unfair and deceptive practice" for a physician which includes medical doctors, osteopaths, chiropractors, podiatrists, dentists or optometrists to charge or try to collect for medical services to a Medicare eligible patient more than Medicare's established "allowable/reasonable charge". It would also be an "unfair and deceptive practice" for a physician to treat Medicare eligible patients other than solely in an emergency situation without enrolling as a "participating physician" in Medicare and being subject to the maximum charges established by Medicare.

Physicians would be required to post a summary of the initiative in their offices and failure to comply with its requirements could result in civil penalties, money damages or court injunctions. The State Attorney General or a Medicare patient could file a civil suit to enforce the law seeking treble damages not exceeding \$10,000, the costs of suit and attorneys fees. Additional penalties of up to \$25,000 can be imposed for violation of a court ordered injunction.

### Statement for

In 1965 Congress created Medicare because health care for America's elder citizens was in critical condition. Bad as things were then, the crisis is even worse today.

Seniors now spend more of their incomes on health care than they did before Medicare existed. The elderly spent 12 percent of their income on health care in 1980. By 1990 they will pay 19 percent, unless we do something quickly.

Initiative 92 cannot cure all of Medicare's ills, but it will take much of the uncertainty out of health care. It will make it illegal for a doctor to charge more than Medicare determines to be a "reasonable and customary charge." Seniors will know that Medicare will always pay 80 percent of their doctor's bills and that they are responsible for 20 percent. Doctors won't get away with overcharging their patients.

And once Initiative 92 passes, the complicated Medicare forms that intimidate so many elderly patients will become the responsibility of the doctor's office.

Initiative 92 will help families. Seniors on limited incomes cannot afford ever-increasing medical bills. By making medical care more affordable, Initiative 92 will make it less likely that the elderly will become a financial burden to their families.

Under the current Medicare reimbursement system, our state's sick and elderly people are forced to either subsidize their doctor's healthy incomes or go without medical care, causing minor illnesses to become major emergencies. That's bad medicine.

Vote YES on Initiative 92.

### Rebuttal of Statement against

Too bad organized medicine uses threats and misinformation.

Doctors claim Initiative 92 could limit access to health care. . .

*Fact:* Overcharges already keep many seniors away.

Doctors say Medicare doesn't pay them enough. . .

*Fact:* According to the AMA, the average doctor's take home pay is \$110,000. The average senior citizen receives a monthly Social Security payment of \$488.

*Fact:* I-92 will cost taxpayers nothing and stop doctors from overcharging.

Protect our health and dignity. Vote yes.

For additional information, call (206) 329-9764.

#### Voters' Pamphlet Statement Prepared by:

GEORGE FLEMING, State Senator; EUGENE V. LUX, State Representative; JIM LEWIS, State Representative.

CLAUDE PEPPER, U.S. Representative, Florida; KEN ANDERSON, President, Washington State Council of Senior Citizens; THOMAS HELLER, M.D., Seattle; SISTER VIRGINIA PAUL, Sisters of Providence, Walla Walla.

### Statement against

#### I-92 IS MISLEADING AND UNFAIR

If I-92 passes, all seniors, regardless of income, retired or working, will be charged less than others for medical care. These discounts will be "shifted" to non-senior patients; costs will increase for families and employers.

Don't believe that Medicare's "reasonable fees" are reasonable. The rates, frozen by Congress in 1984, have little to do with the actual cost of providing service.

#### SOME SENIORS WILL HAVE TO FIND NEW DOCTORS

If I-92 passes, some doctors will be forced to drop seniors and will be *prohibited by law from treating anyone over 65*. To quote the Washington Chapter of the American Association of Retired Persons: ". . . of Washington's 39 counties, 25 have areas that do not have enough primary care physicians. Nineteen of these counties have severe shortages. . . (I-92) . . . could cause some physicians to drop out of Medicare, thus limiting the availability of physician services to the elderly. Thus, AARP must oppose I-92." Our state's Senior Lobby does not support Initiative 92.

#### I-92 DENIES HEALTH CARE TO THE TRULY NEEDY

Despite Medicare's unreasonable rates, 27% of all doctors always accept them, over 90% accept Medicare's rates on a case-by-case basis. Many do not require *needy* seniors to pay anything. Under I-92, doctors *must* charge all seniors, regardless of income, the same unreasonable rates or be in violation of the law; true charity care will suffer.

#### I-92 WILL COST WASHINGTON TAXPAYERS MILLIONS

Washington taxpayers should not be charged to bail out, enforce, or endlessly litigate the federal Medicare pro-

gram. Real Medicare reform is needed in Congress. Join the thousands of seniors, employers, union members, health care professionals, and others in *VOTING NO ON I-92*.

### Rebuttal of Statement for

After investigating claims made by I-92 proponents, this committee, appointed by the Legislature to explain the arguments against I-92, has determined that:

- Congress has set Medicare's payment to doctors at approximately half the cost of actually providing medical services.
- Doctors charging medicare patients the same rate as other patients are not "overcharging;" Medicare is "underpaying."
- Current law provides adequate protections against true "overcharging."
- "Limited income" families will suffer if "unlimited income" seniors receive discounted care.

For additional information, call (206) 441-5863.

#### Voters' Pamphlet Statement Prepared by:

R. LORRAINE WOJAHN, State Senator; CLYDE BALLARD, State Representative; PATRICK R. McMULLEN, State Representative.

Advisory Committee: MIKE RENDISH, Chairman, Washington State Legislative Committee of the American Association of Retired Persons (AARP); RICK BROCK, Legislative Representative, Association of Western Pulp and Paper Workers (AWPPW); HANK SNIDER, Chairman, Employers Against Initiative 92!; RICK L. JOHNSON, M.D., President, Washington State Medical Association.



## COMPLETE TEXT OF Referendum Bill 41

AN ACT Relating to the federal reserve system; creating new sections; and providing for submission of this act to a vote of the people.  
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**NEW SECTION.** Sec.1. (1) A sound money system is absolutely vital to a free people. Symptoms of an unsound money system abound: Budget deficits, recurring recession cycles, farm foreclosures, business bankruptcies, bank, savings and loan, and insurance company failures, trade deficits, and dramatic fluctuations in interest rates, inflation levels, and unemployment statistics. These represent a clear and present danger to the people and to the government of the state of Washington and the United States of America.

(2) The Federal Reserve Act of 1913, and other acts of Congress, purport to delegate the nation's monetary authority to the Federal Reserve System, with no oversight or control by any elected body or official. The Federal Reserve Board is assumed to have the power to create money and thus exercise absolute control over the economic activity of this nation, whereas the United States Constitution nowhere authorizes Congress to delegate such power.

(3) The Federal Reserve Act of 1913, and other acts of Congress, purport to delegate authority, without oversight or control, under which large, private United States multinational banks have made unrestricted loans all over the world which, now in danger of default, threaten the United States of America with a collapse of its whole banking structure.

**NEW SECTION.** Sec 2. It is hereby the declared intent of the state of Washington, and the counsel appointed by the legislature is hereby directed, to cause to be filed in the original jurisdiction of the supreme court of the United States: (1) An action challenging the constitutionality of the delegation to the federal reserve system of the power to create money, and thus the power to exercise absolute control over the economic activity of this nation, and (2) An action challenging the delegation of authority without oversight, under which large, private multinational banks have made unrestricted foreign loans which, if they default, threaten the United States of America with a collapse of its whole banking structure.

**NEW SECTION.** Sec. 3. This act shall be submitted to the people for their adoption and ratification, or rejection, at the next succeeding general election to be held in this state, in accordance with Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof.

(a) Charge, collect, or attempt to collect for medical services provided to any patient eligible for medical insurance benefits for the aged and disabled under the federal medicare program, part B of Title XVIII of the federal social security act, any amount in excess of the reasonable charge for such services as determined under part B of Title XVIII of the federal social security act;

(b) Fail to enroll at the earliest possible time, or fail to continue, as a participating physician under the supplementary medical insurance benefits for the aged and disabled part of the federal medicare program, part B of Title XVIII of the federal social security act; and

(c) Fail to post in a conspicuous place in his or her place of business a summary of the provisions of this section in accordance with such rules adopted by the attorney general to assure that patients are given reasonable notice of their rights under this section.

(2) This section does not apply to a physician who certifies in writing to the attorney general of the state of Washington that he or she does not and will not provide medical services covered under the supplementary medical insurance benefits for the aged and disabled part B of the federal medicare program to persons eligible for such benefits except in emergency situations or when such treatment would otherwise be required by the standards of the profession.

(3) For the purposes of this section the terms used in this section shall be defined consistently with the definitions for such terms contained in Title XVIII of the federal social security act.

**NEW SECTION.** Sec.2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.



## COMPLETE TEXT OF Senate Joint Resolution 8207

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article IV, section 7 of the Constitution of the state of Washington to read as follows:

Article IV, section 7. The judge of any superior court may hold a superior court in any county at the request of the judge of the superior court thereof, and upon the request of the governor it shall be his duty to do so. A case in the superior court may be tried by a judge, pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court and sworn to try the case. However, if a previously elected judge of the superior court retires leaving a pending case in which the judge has made discretionary rulings, the judge is entitled to hear the pending case as a judge pro tempore without any written agreement.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of the foregoing constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.



## COMPLETE TEXT OF Initiative Measure 92

AN ACT Relating to the consumer protection act; and adding a new section to chapter 19.86 RCW.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

**NEW SECTION.** Sec. 1. A new section is added to chapter 19.86 RCW to read as follows:

(1) It shall be an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce under RCW 19.86.020 for any physician to: