Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Ways & Means Committee

ESSB 5892

Brief Description: Concerning prescription drug use in state purchased health care programs.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Keiser and Shin; by request of Governor Gregoire).

Brief Summary of Engrossed Substitute Bill

- Imposes a restriction on dispense as written authority when there is evidence the prescriber's frequency of using dispense as written varies significantly from other prescribers, for a patient's first course of treatment if there is a therapeutic alternative generic drug available, and for off-label use of drugs when there are less expensive drugs available to treat the condition.
- Provides exceptions to the restrictions on dispense as written authority when the prescribed drugs are medically necessary.
- Allows the state to designate less expensive generic drugs as preferred drugs without review by the Pharmacy and Therapeutics Committee.
- Allows the state to designate over-the-counter drugs as preferred drugs.

Hearing Date: 4/4/09

Staff: Erik Cornellier (786-7116)

Background:

The 2003 Legislature created an evidence-based prescription drug program for state agencies that purchase prescription drugs directly or through reimbursement to pharmacies. Currently, the Department of Social and Health Services medical assistance program, the Health Care Authority's self-insured program, and the Department of Labor and Industries participate in the program's preferred drug list (PDL). The PDL is a list of prescription drug classes that have gone through an evidence-based review process to determine the safety, efficacy, and effectiveness of drug classes. The state contracts with the Center for Evidence-Based Policy,

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Oregon Health and Science University, to independently review the prescription drug classes, and their recommendations are reviewed by the Washington State Pharmacy and Therapeutics (P&T) Committee, an independent group of pharmacy doctors and medical doctors, which then makes recommendations regarding the preferred drugs on the PDL.

The evidence-based prescription program includes provisions that allow the substitution of a preferred drug for a nonpreferred drug in a given therapeutic class, except where a practitioner has indicated the prescription for the nonpreferred drug must be dispensed as written, or if the prescription is for a refill of an antipsychotic, antidepressant, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of a immunodulator/antiviral treatment for hepatitis C. When a substitution is made, the pharmacist must notify the prescriber of the specific drug and dose dispensed.

The PDL process currently requires that new generic drugs await an updated P&T Committee review of the drug classes before being designated as preferred drugs. Additionally there are some drug classes where both brand-name and generic drugs are included as preferred. Although federal law precludes drug manufacturers from marketing drugs for non-Food and Drug Administration (FDA) approved use, prescribers are allowed to prescribe drugs for non-FDA approved use, or off-label use, at their discretion.

Summary of Bill:

The state purchasing program may impose restrictions on an endorsing practitioner's authority to require that a prescription be dispensed as written in cases where there is evidence the prescriber's frequency of using this authority varies significantly from other prescribers. The medical director must discuss the data with the prescriber and allow sufficient time for the prescribing patterns to align with other prescribers.

The state purchasing program may impose restrictions on an endorsing practitioner's authority to require that a prescription be dispensed as written for a patient's first course of treatment within a therapeutic class of drugs. The generic may be provided for the first course if there is a therapeutic alternative generic product and the Drug Use Review Board has reviewed the appropriateness of the limitation. The endorsing practitioner may request the brand name drug for the first course of treatment when medically necessary through the prior authorization process.

The state purchasing program may impose restrictions on an endorsing practitioner's authority to require that a prescription be dispensed as written for off-label use of a product when there is a less expensive FDA approved product to the treat the condition and the Drug Use Review Board has reviewed the appropriateness of the limitation. The endorsing practitioner may request the off-label drug when medically necessary through the prior authorization process.

When a less expensive generic product, in a drug class previously reviewed by the P&T committee, becomes available, the state program may immediately designate the generic drug as a preferred drug. Within a therapeutic class, if an over-the-counter drug becomes available, the program may designate the over-the-counter drug as a preferred drug.

The bill has an emergency clause and takes effect immediately.

Appropriation: None.

Fiscal Note: Requested on March 29, 2009.

Effective Date: The bill contains an emergency clause and takes effect immediately.