
SUBSTITUTE HOUSE BILL 2431

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Cody, Campbell, Sommers, Schual-Berke, Fromhold, Hunt, Doumit, McIntire, Lysen, Hatfield, Conway, Voloria, Chase, Ogden, Upthegrove, Romero, Santos, Kagi, Haigh, Wood, Kenney and Simpson)

Read first time 02/05/2002. Referred to Committee on .

1 AN ACT Relating to development of a prescription drug education and
2 utilization system; amending RCW 74.09.010, 41.05.011, 42.30.110, and
3 41.05.026; reenacting and amending RCW 42.17.310; adding new sections
4 to chapter 41.05 RCW; adding a new section to chapter 74.09 RCW; adding
5 a new section to chapter 43.70 RCW; adding a new section to chapter
6 72.09 RCW; adding new sections to chapter 43.60A RCW; adding a new
7 section to chapter 51.36 RCW; adding a new section to chapter 69.41
8 RCW; creating new sections; prescribing penalties; and declaring an
9 emergency.

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

11 NEW SECTION. **Sec. 1.** (1) The legislature finds that prescription
12 drugs are an effective and important part of efforts to maintain and
13 improve the health of Washington state residents. Yet prescription
14 drug expenditures in both the public and private sectors are growing at
15 rates far in excess of consumer or medical inflation, placing a strain
16 on the ability of public and private health care purchasers to continue
17 to offer comprehensive health benefits coverage. In addition,
18 inappropriate use of prescription drugs can have serious health
19 consequences for Washington state residents.

1 (2) It is the intent of the legislature to develop a comprehensive
2 prescription drug education and utilization system in Washington state
3 that will ensure best prescribing practices and pharmaceutical use,
4 reduce administrative burdens on providers, increase consumer
5 understanding of and compliance with appropriate use of prescription
6 drugs, help to control increases in consumer and state health care
7 spending, and improve prescription drug purchasing through a sound
8 evidence-based process that evaluates the therapeutic value and cost-
9 effectiveness of prescription drugs.

10 **Sec. 2.** RCW 74.09.010 and 1990 c 296 s 6 are each amended to read
11 as follows:

12 (~~As used in this chapter:~~) The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Children's health program" means the health care services
15 program provided to children under eighteen years of age and in
16 households with incomes at or below the federal poverty level as
17 annually defined by the federal department of health and human services
18 as adjusted for family size, and who are not otherwise eligible for
19 medical assistance or the limited casualty program for the medically
20 needy.

21 (2) "Committee" means the (~~children's health services~~) pharmacy
22 and therapeutics committee (~~created in section 3 of this act~~).

23 (3) "County" means the board of county commissioners, county
24 council, county executive, or tribal jurisdiction, or its designee. A
25 combination of two or more county authorities or tribal jurisdictions
26 may enter into joint agreements to fulfill the requirements of RCW
27 74.09.415 through 74.09.435.

28 (4) "Department" means the department of social and health
29 services.

30 (5) "Department of health" means the Washington state department of
31 health created pursuant to RCW 43.70.020.

32 (6) "Internal management" means the administration of medical
33 assistance, medical care services, the children's health program, and
34 the limited casualty program.

35 (7) "Limited casualty program" means the medical care program
36 provided to medically needy persons as defined under Title XIX of the
37 federal social security act, and to medically indigent persons who are

1 without income or resources sufficient to secure necessary medical
2 services.

3 (8) "Medical assistance" means the federal aid medical care program
4 provided to categorically needy persons as defined under Title XIX of
5 the federal social security act.

6 (9) "Medical care services" means the limited scope of care
7 financed by state funds and provided to general assistance recipients,
8 and recipients of alcohol and drug addiction services provided under
9 chapter 74.50 RCW.

10 (10) "Nursing home" means nursing home as defined in RCW 18.51.010.

11 (11) "Poverty" means the federal poverty level determined annually
12 by the United States department of health and human services, or
13 successor agency.

14 (12) "Preferred drug" means the department's drug of choice within
15 a selected therapeutic class, as determined by the process established
16 in section 4 of this act.

17 (13) "Prior authorization" means a process requiring the prescriber
18 or the dispenser to verify with the state medicaid agency or its
19 contractor that the proposed medical use of a particular medicine for
20 a patient meets predetermined criteria for payment by the program.

21 (14) "Secretary" means the secretary of social and health services.

22 (15) "Therapeutic class" means a group of drugs used for the
23 diagnosis, treatment, remediation, or cure of a specific disorder or
24 disease.

25 **Sec. 3.** RCW 41.05.011 and 2001 c 165 s 2 are each amended to read
26 as follows:

27 (~~Unless the context clearly requires otherwise,~~) The definitions
28 in this section (~~shall~~) apply throughout this chapter unless the
29 context clearly requires otherwise.

30 (1) "Administrator" means the administrator of the authority.

31 (2) "State purchased health care" or "health care" means medical
32 and health care, pharmaceuticals, and medical equipment purchased with
33 state and federal funds by the department of social and health
34 services, the department of health, the basic health plan, the state
35 health care authority, the department of labor and industries, the
36 department of corrections, the department of veterans affairs, and
37 local school districts.

38 (3) "Authority" means the Washington state health care authority.

1 (4) "Insuring entity" means an insurer as defined in chapter 48.01
2 RCW, a health care service contractor as defined in chapter 48.44 RCW,
3 or a health maintenance organization as defined in chapter 48.46 RCW.

4 (5) "Flexible benefit plan" means a benefit plan that allows
5 employees to choose the level of health care coverage provided and the
6 amount of employee contributions from among a range of choices offered
7 by the authority.

8 (6) "Employee" includes all full-time and career seasonal employees
9 of the state, whether or not covered by civil service; elected and
10 appointed officials of the executive branch of government, including
11 full-time members of boards, commissions, or committees; and includes
12 any or all part-time and temporary employees under the terms and
13 conditions established under this chapter by the authority; justices of
14 the supreme court and judges of the court of appeals and the superior
15 courts; and members of the state legislature or of the legislative
16 authority of any county, city, or town who are elected to office after
17 February 20, 1970. "Employee" also includes: (a) Employees of a
18 county, municipality, or other political subdivision of the state if
19 the legislative authority of the county, municipality, or other
20 political subdivision of the state seeks and receives the approval of
21 the authority to provide any of its insurance programs by contract with
22 the authority, as provided in RCW 41.04.205; (b) employees of employee
23 organizations representing state civil service employees, at the option
24 of each such employee organization, and, effective October 1, 1995,
25 employees of employee organizations currently pooled with employees of
26 school districts for the purpose of purchasing insurance benefits, at
27 the option of each such employee organization; and (c) employees of a
28 school district if the authority agrees to provide any of the school
29 districts' insurance programs by contract with the authority as
30 provided in RCW 28A.400.350.

31 (7) "Board" means the public employees' benefits board established
32 under RCW 41.05.055.

33 (8) "Retired or disabled school employee" means:

34 (a) Persons who separated from employment with a school district or
35 educational service district and are receiving a retirement allowance
36 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

37 (b) Persons who separate from employment with a school district or
38 educational service district on or after October 1, 1993, and

1 immediately upon separation receive a retirement allowance under
2 chapter 41.32, 41.35, or 41.40 RCW;

3 (c) Persons who separate from employment with a school district or
4 educational service district due to a total and permanent disability,
5 and are eligible to receive a deferred retirement allowance under
6 chapter 41.32, 41.35, or 41.40 RCW.

7 (9) "Benefits contribution plan" means a premium only contribution
8 plan, a medical flexible spending arrangement, or a cafeteria plan
9 whereby state and public employees may agree to a contribution to
10 benefit costs which will allow the employee to participate in benefits
11 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the
12 internal revenue code.

13 (10) "Salary" means a state employee's monthly salary or wages.

14 (11) "Participant" means an individual who fulfills the eligibility
15 and enrollment requirements under the benefits contribution plan.

16 (12) "Plan year" means the time period established by the
17 authority.

18 (13) "Separated employees" means persons who separate from
19 employment with an employer as defined in:

20 (a) RCW 41.32.010(11) on or after July 1, 1996; or

21 (b) RCW 41.35.010 on or after September 1, 2000; or

22 (c) RCW 41.40.010 on or after March 1, 2002;

23 and who are at least age fifty-five and have at least ten years of
24 service under the teachers' retirement system plan 3 as defined in RCW
25 41.32.010(40), the Washington school employees' retirement system plan
26 3 as defined in RCW 41.35.010, or the public employees' retirement
27 system plan 3 as defined in RCW 41.40.010.

28 (14) "Emergency service personnel killed in the line of duty" means
29 law enforcement officers and fire fighters as defined in RCW 41.26.030,
30 and reserve officers and fire fighters as defined in RCW 41.24.010 who
31 die as a result of injuries sustained in the course of employment as
32 determined consistent with Title 51 RCW by the department of labor and
33 industries.

34 (15) "Preferred drug" means the authority's drug of choice within
35 a selected therapeutic class, as determined by the process established
36 in section 4 of this act.

37 (16) "Prior authorization" means a process requiring the prescriber
38 or the dispenser to verify with the authority or its contractor that

1 the proposed medical use of a particular medicine for a patient meets
2 predetermined criteria for payment by the program.

3 (17) "Therapeutic class" means a group of drugs used for the
4 diagnosis, treatment, remediation, or cure of a specific disorder or
5 disease.

6 NEW SECTION. Sec. 4. A new section is added to chapter 41.05 RCW
7 to read as follows:

8 The administrator, in concert with other state agencies involved in
9 state purchased health care, must begin implementation of a preferred
10 drug program by January 1, 2003. The preferred drug program is
11 initially limited to fee-for-service prescription drug purchasing
12 through medical assistance programs under chapter 74.09 RCW, the
13 uniform medical plan under this chapter, and other state purchased
14 health care programs. The administrator must include bulk purchased
15 prescription drugs in the preferred drug program according to a
16 timetable of the administrator's choosing. The preferred drug program
17 shall not be applied to health care purchased through managed care
18 contracts with carriers. To expedite development of the preferred drug
19 list, the administrator, the independent entity, and the pharmacy and
20 therapeutics committee must make maximum use of sound evidence-based
21 prescription drug reviews that have been completed, giving
22 consideration to the needs and characteristics of populations served by
23 state purchased health care programs. In implementing the preferred
24 drug program, the administrator may adopt rules, and must:

25 (1) Identify for initial consideration those classes of drugs for
26 which agencies have substantial annual aggregate fee-for-service
27 expenditures;

28 (2) Exempt the following drug classes from inclusion on any
29 preferred drug list:

30 (a) Antipsychotics;

31 (b) Chemotherapy;

32 (c) Antiretroviral drugs;

33 (d) Immunosuppressants; and

34 (e) Hypoglycemia rescue agents;

35 (3) Contract with one or more qualified, independent entities to
36 determine which drugs within each of the identified therapeutic classes
37 are essentially equal in terms of safety, efficacy, and outcomes. Upon
38 request of the pharmacy and therapeutics committee or the authority,

1 manufacturers must submit dossiers containing clinical and economic
2 data utilizing the academy of managed care pharmacy format for
3 preferred drug list submissions. The pharmacy and therapeutics
4 committee or the administrator shall request the dossier from a
5 manufacturer within thirty days of food and drug administration
6 approval of any new drug. The pharmacy and therapeutics committee or
7 the authority must provide the dossier to the contracted entity, who
8 will base its determinations on the strength of scientific evidence and
9 standards of practice that include, but are not limited to:

10 (a) Assessing peer-reviewed medical literature, including
11 randomized clinical trials (especially drug comparison studies),
12 pharmacoeconomic studies, and outcomes research data;

13 (b) Employing published practice guidelines developed by an
14 acceptable evidence-based process;

15 (c) Comparing the efficacy as well as the type and frequency of
16 side effects and potential drug interactions among alternative drug
17 products in the class under review;

18 (d) Assessing the likely impact of a drug product on patient
19 compliance when compared to alternative drug products in the class
20 under review; and

21 (e) Thoroughly evaluating the benefits, risks, and potential
22 outcomes for patients, including adverse drug events;

23 (4) Submit the determinations made under subsection (3) of this
24 section to the pharmacy and therapeutics committee established in
25 section 13 of this act, which must incorporate them into
26 recommendations to the administrator as provided in section 13 of this
27 act;

28 (5) Develop a preferred drug list based on the recommendations of
29 the pharmacy and therapeutics committee. For each therapeutic class
30 considered, the list must identify the drugs determined to be
31 essentially equal and, from among those, which ones are the preferred
32 drugs. The pharmacy and therapeutics committee or the administrator
33 will revise the preferred drug list annually or as needed, to be
34 determined by new drug approvals, recalls, or new scientific evidence
35 that may change a given drug's status or use, or as necessary to meet
36 the objectives of this act. Each state agency that purchases or
37 provides health care services must adopt the preferred drug list
38 consistent with the scope of benefits offered through programs
39 administered by that agency;

1 (6) Directly or through interagency agreement, distribute the
2 initial preferred drug list, and any subsequent revisions, to every
3 provider with prescriptive authority with whom an agency has core
4 provider agreement, including with it a description of how the list was
5 developed, how it will be used, and requesting his or her endorsement;

6 (7) Ensure that a prescriber who does not endorse the list must do
7 so in writing to the administrator and is subject to prior
8 authorization as provided in sections 5 through 10 of this act;

9 (8) Require any pharmacist filling a prescription for a client of
10 state purchased health care or entities and individuals voluntarily
11 participating under section 18 of this act from a prescriber who has
12 endorsed the preferred drug list to substitute the preferred drug for
13 any nonpreferred drug in a given therapeutic category, unless the
14 prescriber has indicated on the prescription that the nonpreferred drug
15 must be dispensed as written, in which case the pharmacist must
16 dispense the nonpreferred drug as written. When a substitution is
17 made, or the preferred drug within a therapeutic class changes, the
18 prescriber will be notified in writing by the dispensing pharmacist of
19 the specific drug and dose dispensed;

20 (9) The administrator must either provide each pharmacy with a
21 listing of the prescribers who have endorsed the preferred drug list or
22 include that information in the electronic claim adjudication system of
23 each state drug purchasing program so that the pharmacist may easily
24 determine when substitution of a preferred drug has been authorized.

25 Upon incorporation of a therapeutic class into the preferred drug
26 list, existing prior authorization procedures applicable to that
27 therapeutic class shall cease, and the prior authorization provisions
28 of sections 5 through 10 of this act shall apply.

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.05 RCW
30 to read as follows:

31 (1) The administrator may subject any drug in a class included in
32 the preferred drug list established in section 4 of this act to prior
33 authorization in only limited circumstances, such as when the drug is
34 high cost, has a narrow therapeutic indication, presents a risk of
35 inappropriate utilization, or poses safety concerns. A new drug that
36 has not yet been reviewed under section 4 of this act may be subject to
37 prior authorization. A prescriber who does not endorse the preferred

1 drug list is subject to a broader scope of prior authorization as
2 determined by the administrator.

3 (2) The administrator may subject drugs identified in section 4(2)
4 of this act to prior authorization where clinically indicated.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.09 RCW
6 to read as follows:

7 (1) The department may subject any drug in a class included in
8 section 4 of this act to prior authorization in only limited
9 circumstances, such as when the drug is high cost, has a narrow
10 therapeutic indication, presents a risk of inappropriate utilization,
11 or poses safety concerns. A new drug that has not yet been reviewed
12 under section 4 of this act may be subject to prior authorization. A
13 prescriber who does not endorse the preferred drug list is subject to
14 a broader scope of prior authorization as determined by the secretary.

15 (2) The department may subject drugs identified in section 4(2) of
16 this act to prior authorization where clinically indicated.

17 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.70 RCW
18 to read as follows:

19 (1) The department may subject any drug in a class included in
20 section 4 of this act to prior authorization in only limited
21 circumstances, such as when the drug is high cost, has a narrow
22 therapeutic indication, presents a risk of inappropriate utilization,
23 or poses safety concerns. A new drug that has not yet been reviewed
24 under section 4 of this act may be subject to prior authorization. A
25 prescriber who does not endorse the preferred drug list is subject to
26 a broader scope of prior authorization as determined by the secretary.

27 (2) The department may subject drugs identified in section 4(2) of
28 this act to prior authorization where clinically indicated.

29 NEW SECTION. **Sec. 8.** A new section is added to chapter 72.09 RCW
30 to read as follows:

31 (1) The department may subject any drug in a class included in
32 section 4 of this act to prior authorization in only limited
33 circumstances, such as when the drug is high cost, has a narrow
34 therapeutic indication, presents a risk of inappropriate utilization,
35 or poses safety concerns. A new drug that has not yet been reviewed
36 under section 4 of this act may be subject to prior authorization. A

1 prescriber who does not endorse the preferred drug list is subject to
2 a broader scope of prior authorization as determined by the secretary.

3 (2) The department may subject drugs identified in section 4(2) of
4 this act to prior authorization where clinically indicated.

5 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.60A RCW
6 to read as follows:

7 (1) The department may subject any drug in a class included in
8 section 4 of this act to prior authorization in only limited
9 circumstances, such as when the drug is high cost, has a narrow
10 therapeutic indication, presents a risk of inappropriate utilization,
11 or poses safety concerns. A new drug that has not yet been reviewed
12 under section 4 of this act may be subject to prior authorization. A
13 prescriber who does not endorse the preferred drug list is subject to
14 a broader scope of prior authorization as determined by the director.

15 (2) The department may subject drugs identified in section 4(2) of
16 this act to prior authorization where clinically indicated.

17 NEW SECTION. **Sec. 10.** A new section is added to chapter 51.36 RCW
18 to read as follows:

19 (1) The department may subject any drug in a class included in
20 section 4 of this act to prior authorization in only limited
21 circumstances, such as when the drug is high cost, has a narrow
22 therapeutic indication, presents a risk of inappropriate utilization,
23 or poses safety concerns. A new drug that has not yet been reviewed
24 under section 4 of this act may be subject to prior authorization. A
25 prescriber who does not endorse the preferred drug list is subject to
26 a broader scope of prior authorization as determined by the director.

27 (2) The department may subject drugs identified in section 4(2) of
28 this act to prior authorization where clinically indicated.

29 NEW SECTION. **Sec. 11.** A new section is added to chapter 41.05 RCW
30 to read as follows:

31 Any prior approval process adopted pursuant to sections 5 through
32 10 of this act must include clear standards and procedures for a
33 process to ensure consumer access to medically necessary nonpreferred
34 drugs. No preferred drug list can account for every therapeutic
35 eventuality or unique patient need. Prior approval procedures for
36 nonpreferred drugs must neither pose a substantial barrier to the

1 prescribing health care professional nor hinder the consumer's ability
2 to receive necessary medication in a safe and timely manner. A prior
3 authorization program must provide for: (1) A response within twenty-
4 four hours after receipt of a request for prior authorization; and (2)
5 the dispensing of at least a seventy-two hour supply of the requested
6 drug in an emergency situation.

7 NEW SECTION. **Sec. 12.** A new section is added to chapter 41.05 RCW
8 to read as follows:

9 To complement the preferred drug program established in section 4
10 of this act, the administrator must, in concert with state agencies
11 involved in state purchased health care:

12 (1) Implement a program of academic detailing and client
13 counterdetailing that educates physicians and other prescribers, and
14 clients of state purchased health care, on the cost-effective
15 utilization of prescription drugs on the preferred drug list;

16 (2) By July 1, 2004, use electronic drug claims processing and
17 information retrieval systems to analyze pharmacy and medical claims to
18 identify those prescribers who request that prescriptions for
19 nonpreferred drugs be dispensed as written on a more frequent basis
20 than their peers, and provide information and education to those
21 prescribers as needed to improve the system and prescribing practices;
22 and

23 (3) Conduct a feasibility study of developing a system to
24 periodically provide a complete drug profile of persons covered through
25 state purchased health care systems to health care providers caring for
26 those persons.

27 NEW SECTION. **Sec. 13.** A new section is added to chapter 41.05 RCW
28 to read as follows:

29 (1) A pharmacy and therapeutics committee is established to assist
30 the administrator, and other agencies involved in state purchased
31 health care, in the development and implementation of a preferred drug
32 program.

33 (2) The committee consists of nine members, to be appointed by the
34 governor as follows:

35 (a) Four physicians licensed under chapter 18.57 or 18.71 RCW in
36 this state and actively engaged in the practice of medicine, at least
37 one of whom is employed by a carrier as defined in RCW 48.43.005,

1 chosen from a list of nominees provided by the Washington state medical
2 association;

3 (b) One advanced registered nurse practitioner licensed in this
4 state and actively engaged in the practice of nursing chosen from a
5 list of nominees provided by the Washington state nurses association;

6 (c) Three pharmacists licensed in this state and actively engaged
7 in the practice of pharmacy chosen from a list of nominees provided by
8 the Washington state pharmacists association; and

9 (d) One person with background experience, education, or expertise
10 in pharmacoconomics.

11 (3) No member of the committee may be employed by or receive
12 remuneration, grants, or other compensation from a pharmaceutical
13 manufacturer, or be employed by the state of Washington by any agency
14 administering "state purchased health care," as defined in RCW
15 41.05.011.

16 (4) Committee members serve staggered three-year terms. Of the
17 initial members, one physician, the advanced registered nurse
18 practitioner, and one pharmacist must each be appointed for two-year
19 terms, and one physician and one pharmacist must each be appointed for
20 one-year terms. The remaining committee members must be appointed for
21 three-year terms. Members may be reappointed for a period not to
22 exceed three three-year terms. Vacancies on the committee must be
23 filled for the balance of the unexpired term from nominee lists for the
24 appropriate committee category as provided under subsection (2) of this
25 section.

26 (5) Committee members must select a chair and a vice-chair on an
27 annual basis from the committee membership.

28 (6) The administrator must enter into a confidentiality agreement
29 with any private contractor or state employee who has access to
30 proprietary or confidential nonpublished data that is in the custody of
31 the pharmacy and therapeutics committee established under this section.
32 The failure of any contractor to adhere to the terms of the
33 confidentiality agreement is grounds for termination of the contract by
34 the administrator. Unauthorized disclosure of proprietary or
35 confidential nonpublished data by any contractor or their employee, or
36 by any employee of a state agency, is punishable as a class C felony.

37 (7) The authority shall provide staff support to the committee.
38 Committee members shall be compensated for their service and shall be
39 reimbursed for expenses pursuant to RCW 43.03.050 and 43.03.060.

1 (8) The members of the committee are immune from civil liability
2 for any official acts performed in good faith as members of the
3 committee.

4 (9) The committee must:

5 (a) Recommend to the administrator, and other agencies involved in
6 state purchased health care, which drugs should be identified as
7 preferred drugs from among those determined, pursuant to section 4(3)
8 of this act, to be essentially equal in terms of safety and efficacy.
9 In updating the preferred drug list, the pharmacy and therapeutics
10 committee shall complete its review and submit recommendations to the
11 administrator within one hundred twenty days from the date of receipt
12 of the dossier under section 4 of this act. In making these
13 recommendations, the committee must consider, among other factors, the
14 relative cost of the drugs being considered, the impact of each drug on
15 the state's overall health care expenditures, and the efforts of each
16 drug's manufacturer to ensure that all Washington residents have access
17 to medically necessary medicines at an affordable price.

18 (b) Make recommendations regarding the rules to be adopted by the
19 administrator and other state agencies involved in state purchased
20 health care to implement the preferred drug program; and

21 (c) Make recommendations regarding the preferred drug list
22 development and review process, and program implementation, as
23 necessary to achieve the objectives of this act.

24 NEW SECTION. **Sec. 14.** A new section is added to chapter 41.05 RCW
25 to read as follows:

26 The administrator must design, in concert with state agencies
27 involved in state purchased fee-for-service health care, a uniform drug
28 utilization review program for state purchased health care that meets
29 the requirement of Title XIX of the social security act. Each state
30 agency that purchases or provides health care services must adopt the
31 uniform drug utilization review program for its fee-for-service
32 purchasing and may implement it directly or by contract or interagency
33 agreement. The program must include but is not limited to prescription
34 drug review, management, and education, including prospective,
35 concurrent, and retrospective review, to improve the quality of
36 pharmaceutical care by ensuring that prescription drugs provided
37 through state purchased fee-for-service health care programs advance
38 quality clinical outcomes and are appropriate, medically necessary, and

1 not likely to produce adverse medical results. Drugs exempted from the
2 preferred drug list under section 4(2) of this act may be included in
3 the drug utilization review program. The program also must identify
4 clients utilizing large numbers of prescription drugs, and develop
5 strategies to enhance coordination of care for these individuals.

6 (1) The administrator shall establish a drug utilization review
7 committee either directly or through a contract with a private
8 organization to assist in development and implementation of the drug
9 utilization review program. The committee must be composed primarily
10 of actively practicing health care professionals. Additional specialty
11 expertise must be obtained as needed. Employees of agencies that
12 purchase health services cannot be a member of the drug utilization
13 review committee but will provide staff support to the committee. Upon
14 establishment of the committee, the department of social and health
15 services shall disband the drug utilization review committee under the
16 medical assistance administration.

17 (2) Nothing in chapter 42.30 RCW prevents the drug utilization
18 review committee from holding an executive session during a regular or
19 special meeting of the committee to review and discuss proprietary or
20 confidential nonpublished data that relates to development or
21 implementation of the drug utilization review program.

22 (3) The administrator must enter into a confidentiality agreement
23 with any private contractor or state employee who has access to
24 proprietary or confidential nonpublished data that is in the custody of
25 any drug utilization review committee established under this section.
26 The failure of any contractor to adhere to the terms of the
27 confidentiality agreement is grounds for termination of the contract by
28 the administrator. Unauthorized disclosure of proprietary or
29 confidential nonpublished data by any contractor or their employee, or
30 by any employee of a state agency, is punishable as a class C felony.

31 (4) A person who serves on a drug utilization review committee
32 established under this section is immune from civil liability for
33 actions taken in good faith as a member of the committee.

34 **Sec. 15.** RCW 42.30.110 and 2001 c 216 s 1 are each amended to read
35 as follows:

36 (1) Nothing contained in this chapter may be construed to prevent
37 a governing body from holding an executive session during a regular or
38 special meeting:

- 1 (a) To consider matters affecting national security;
- 2 (b) To consider the selection of a site or the acquisition of real
3 estate by lease or purchase when public knowledge regarding such
4 consideration would cause a likelihood of increased price;
- 5 (c) To consider the minimum price at which real estate will be
6 offered for sale or lease when public knowledge regarding such
7 consideration would cause a likelihood of decreased price. However,
8 final action selling or leasing public property shall be taken in a
9 meeting open to the public;
- 10 (d) To review negotiations on the performance of publicly bid
11 contracts when public knowledge regarding such consideration would
12 cause a likelihood of increased costs;
- 13 (e) To consider, in the case of an export trading company,
14 financial and commercial information supplied by private persons to the
15 export trading company;
- 16 (f) To receive and evaluate complaints or charges brought against
17 a public officer or employee. However, upon the request of such
18 officer or employee, a public hearing or a meeting open to the public
19 shall be conducted upon such complaint or charge;
- 20 (g) To evaluate the qualifications of an applicant for public
21 employment or to review the performance of a public employee. However,
22 subject to RCW 42.30.140(4), discussion by a governing body of
23 salaries, wages, and other conditions of employment to be generally
24 applied within the agency shall occur in a meeting open to the public,
25 and when a governing body elects to take final action hiring, setting
26 the salary of an individual employee or class of employees, or
27 discharging or disciplining an employee, that action shall be taken in
28 a meeting open to the public;
- 29 (h) To evaluate the qualifications of a candidate for appointment
30 to elective office. However, any interview of such candidate and final
31 action appointing a candidate to elective office shall be in a meeting
32 open to the public;
- 33 (i) To discuss with legal counsel representing the agency matters
34 relating to agency enforcement actions, or to discuss with legal
35 counsel representing the agency litigation or potential litigation to
36 which the agency, the governing body, or a member acting in an official
37 capacity is, or is likely to become, a party, when public knowledge
38 regarding the discussion is likely to result in an adverse legal or
39 financial consequence to the agency.

1 This subsection (1)(i) does not permit a governing body to hold an
2 executive session solely because an attorney representing the agency is
3 present. For purposes of this subsection (1)(i), "potential
4 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
5 concerning:

6 (A) Litigation that has been specifically threatened to which the
7 agency, the governing body, or a member acting in an official capacity
8 is, or is likely to become, a party;

9 (B) Litigation that the agency reasonably believes may be commenced
10 by or against the agency, the governing body, or a member acting in an
11 official capacity; or

12 (C) Litigation or legal risks of a proposed action or current
13 practice that the agency has identified when public discussion of the
14 litigation or legal risks is likely to result in an adverse legal or
15 financial consequence to the agency;

16 (j) To consider, in the case of the state library commission or its
17 advisory bodies, western library network prices, products, equipment,
18 and services, when such discussion would be likely to adversely affect
19 the network's ability to conduct business in a competitive economic
20 climate. However, final action on these matters shall be taken in a
21 meeting open to the public;

22 (k) To consider, in the case of the state investment board,
23 financial and commercial information when the information relates to
24 the investment of public trust or retirement funds and when public
25 knowledge regarding the discussion would result in loss to such funds
26 or in private loss to the providers of this information;

27 (l) To consider, in the case of the pharmacy and therapeutics
28 committee established in section 13 of this act or the drug utilization
29 review committee established in section 14 of this act, proprietary or
30 confidential nonpublished information that relates to the development
31 or revision of the preferred drug list, the designation of a drug for
32 prior authorization, or the conduct of the drug utilization review
33 program.

34 (2) Before convening in executive session, the presiding officer of
35 a governing body shall publicly announce the purpose for excluding the
36 public from the meeting place, and the time when the executive session
37 will be concluded. The executive session may be extended to a stated
38 later time by announcement of the presiding officer.

1 **Sec. 16.** RCW 41.05.026 and 1991 c 79 s 1 are each amended to read
2 as follows:

3 (1) When soliciting proposals for the purpose of awarding contracts
4 for goods or services, the administrator shall, upon written request by
5 the bidder, exempt from public inspection and copying such proprietary
6 data, trade secrets, or other information contained in the bidder's
7 proposal that relate to the bidder's unique methods of conducting
8 business or of determining prices or premium rates to be charged for
9 services under terms of the proposal.

10 (2) Actuarial formulas, statistics, cost and utilization data, or
11 other proprietary information submitted upon request of the
12 administrator or board by a contracting insurer, health care service
13 contractor, health maintenance organization, or vendor may be withheld
14 at any time from public inspection when necessary to preserve trade
15 secrets or prevent unfair competition.

16 (3) Proprietary information submitted upon request of the
17 administrator or the pharmacy and therapeutics committee established
18 under section 13 of this act by any vendor or pharmaceutical
19 manufacturer for the purpose of analyzing and developing prescription
20 drug education and utilization systems, a preferred drug list, a drug
21 utilization review program, and consolidated prescription drug
22 purchasing for state purchased health care programs may be withheld at
23 any time from public inspection when necessary to preserve trade
24 secrets or prevent unfair competition.

25 (4) The board, the pharmacy and therapeutics committee established
26 in section 13 of this act, or the drug utilization review committee
27 established in section 14 of this act may hold an executive session in
28 accordance with chapter 42.30 RCW during any regular or special meeting
29 to discuss information submitted in accordance with subsection (1)
30 ((or)), (2), or (3) of this section.

31 (5) A person who challenges a request for or designation of
32 information as exempt under this section is entitled to seek judicial
33 review pursuant to chapter 42.17 RCW.

34 **Sec. 17.** RCW 42.17.310 and 2001 c 278 s 1, 2001 c 98 s 2, and 2001
35 c 70 s 1 are each reenacted and amended to read as follows:

36 (1) The following are exempt from public inspection and copying:

1 (a) Personal information in any files maintained for students in
2 public schools, patients or clients of public institutions or public
3 health agencies, or welfare recipients.

4 (b) Personal information in files maintained for employees,
5 appointees, or elected officials of any public agency to the extent
6 that disclosure would violate their right to privacy.

7 (c) Information required of any taxpayer in connection with the
8 assessment or collection of any tax if the disclosure of the
9 information to other persons would (i) be prohibited to such persons by
10 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
11 taxpayer's right to privacy or result in unfair competitive
12 disadvantage to the taxpayer.

13 (d) Specific intelligence information and specific investigative
14 records compiled by investigative, law enforcement, and penology
15 agencies, and state agencies vested with the responsibility to
16 discipline members of any profession, the nondisclosure of which is
17 essential to effective law enforcement or for the protection of any
18 person's right to privacy.

19 (e) Information revealing the identity of persons who are witnesses
20 to or victims of crime or who file complaints with investigative, law
21 enforcement, or penology agencies, other than the public disclosure
22 commission, if disclosure would endanger any person's life, physical
23 safety, or property. If at the time a complaint is filed the
24 complainant, victim or witness indicates a desire for disclosure or
25 nondisclosure, such desire shall govern. However, all complaints filed
26 with the public disclosure commission about any elected official or
27 candidate for public office must be made in writing and signed by the
28 complainant under oath.

29 (f) Test questions, scoring keys, and other examination data used
30 to administer a license, employment, or academic examination.

31 (g) Except as provided by chapter 8.26 RCW, the contents of real
32 estate appraisals, made for or by any agency relative to the
33 acquisition or sale of property, until the project or prospective sale
34 is abandoned or until such time as all of the property has been
35 acquired or the property to which the sale appraisal relates is sold,
36 but in no event shall disclosure be denied for more than three years
37 after the appraisal.

38 (h) Valuable formulae, designs, drawings, computer source code or
39 object code, and research data obtained by any agency within five years

1 of the request for disclosure when disclosure would produce private
2 gain and public loss.

3 (i) Preliminary drafts, notes, recommendations, and intra-agency
4 memorandums in which opinions are expressed or policies formulated or
5 recommended except that a specific record shall not be exempt when
6 publicly cited by an agency in connection with any agency action.

7 (j) Records which are relevant to a controversy to which an agency
8 is a party but which records would not be available to another party
9 under the rules of pretrial discovery for causes pending in the
10 superior courts.

11 (k) Records, maps, or other information identifying the location of
12 archaeological sites in order to avoid the looting or depredation of
13 such sites.

14 (l) Any library record, the primary purpose of which is to maintain
15 control of library materials, or to gain access to information, which
16 discloses or could be used to disclose the identity of a library user.

17 (m) Financial information supplied by or on behalf of a person,
18 firm, or corporation for the purpose of qualifying to submit a bid or
19 proposal for (i) a ferry system construction or repair contract as
20 required by RCW 47.60.680 through 47.60.750 or (ii) highway
21 construction or improvement as required by RCW 47.28.070.

22 (n) Railroad company contracts filed prior to July 28, 1991, with
23 the utilities and transportation commission under RCW 81.34.070, except
24 that the summaries of the contracts are open to public inspection and
25 copying as otherwise provided by this chapter.

26 (o) Financial and commercial information and records supplied by
27 private persons pertaining to export services provided pursuant to
28 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
29 export projects pursuant to RCW 43.23.035.

30 (p) Financial disclosures filed by private vocational schools under
31 chapters 28B.85 and 28C.10 RCW.

32 (q) Records filed with the utilities and transportation commission
33 or attorney general under RCW 80.04.095 that a court has determined are
34 confidential under RCW 80.04.095.

35 (r) Financial and commercial information and records supplied by
36 businesses or individuals during application for loans or program
37 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
38 or during application for economic development loans or program
39 services provided by any local agency.

1 (s) Membership lists or lists of members or owners of interests of
2 units in timeshare projects, subdivisions, camping resorts,
3 condominiums, land developments, or common-interest communities
4 affiliated with such projects, regulated by the department of
5 licensing, in the files or possession of the department.

6 (t) All applications for public employment, including the names of
7 applicants, resumes, and other related materials submitted with respect
8 to an applicant.

9 (u) The residential addresses or residential telephone numbers of
10 employees or volunteers of a public agency which are held by any public
11 agency in personnel records, public employment related records, or
12 volunteer rosters, or are included in any mailing list of employees or
13 volunteers of any public agency.

14 (v) The residential addresses and residential telephone numbers of
15 the customers of a public utility contained in the records or lists
16 held by the public utility of which they are customers, except that
17 this information may be released to the division of child support or
18 the agency or firm providing child support enforcement for another
19 state under Title IV-D of the federal social security act, for the
20 establishment, enforcement, or modification of a support order.

21 (w)(i) The federal social security number of individuals governed
22 under chapter 18.130 RCW maintained in the files of the department of
23 health, except this exemption does not apply to requests made directly
24 to the department from federal, state, and local agencies of
25 government, and national and state licensing, credentialing,
26 investigatory, disciplinary, and examination organizations; (ii) the
27 current residential address and current residential telephone number of
28 a health care provider governed under chapter 18.130 RCW maintained in
29 the files of the department, if the provider requests that this
30 information be withheld from public inspection and copying, and
31 provides to the department an accurate alternate or business address
32 and business telephone number. On or after January 1, 1995, the
33 current residential address and residential telephone number of a
34 health care provider governed under RCW 18.130.040 maintained in the
35 files of the department shall automatically be withheld from public
36 inspection and copying unless the provider specifically requests the
37 information be released, and except as provided for under RCW
38 42.17.260(9).

1 (x) Information obtained by the board of pharmacy as provided in
2 RCW 69.45.090.

3 (y) Information obtained by the board of pharmacy or the department
4 of health and its representatives as provided in RCW 69.41.044,
5 69.41.280, and 18.64.420.

6 (z) Financial information, business plans, examination reports, and
7 any information produced or obtained in evaluating or examining a
8 business and industrial development corporation organized or seeking
9 certification under chapter 31.24 RCW.

10 (aa) Financial and commercial information supplied to the state
11 investment board by any person when the information relates to the
12 investment of public trust or retirement funds and when disclosure
13 would result in loss to such funds or in private loss to the providers
14 of this information.

15 (bb) Financial and valuable trade information under RCW 51.36.120.

16 (cc) Client records maintained by an agency that is a domestic
17 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
18 crisis center as defined in RCW 70.125.030.

19 (dd) Information that identifies a person who, while an agency
20 employee: (i) Seeks advice, under an informal process established by
21 the employing agency, in order to ascertain his or her rights in
22 connection with a possible unfair practice under chapter 49.60 RCW
23 against the person; and (ii) requests his or her identity or any
24 identifying information not be disclosed.

25 (ee) Investigative records compiled by an employing agency
26 conducting a current investigation of a possible unfair practice under
27 chapter 49.60 RCW or of a possible violation of other federal, state,
28 or local laws prohibiting discrimination in employment.

29 (ff) Business related information protected from public inspection
30 and copying under RCW 15.86.110.

31 (gg) Financial, commercial, operations, and technical and research
32 information and data submitted to or obtained by the clean Washington
33 center in applications for, or delivery of, program services under
34 chapter 70.95H RCW.

35 (hh) Information and documents created specifically for, and
36 collected and maintained by a quality improvement committee pursuant to
37 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
38 4.24.250, regardless of which agency is in possession of the
39 information and documents.

1 (ii) Personal information in files maintained in a data base
2 created under RCW 43.07.360.

3 (jj) Financial and commercial information requested by the public
4 stadium authority from any person or organization that leases or uses
5 the stadium and exhibition center as defined in RCW 36.102.010.

6 (kk) Names of individuals residing in emergency or transitional
7 housing that are furnished to the department of revenue or a county
8 assessor in order to substantiate a claim for property tax exemption
9 under RCW 84.36.043.

10 (ll) The names, residential addresses, residential telephone
11 numbers, and other individually identifiable records held by an agency
12 in relation to a vanpool, carpool, or other ride-sharing program or
13 service. However, these records may be disclosed to other persons who
14 apply for ride-matching services and who need that information in order
15 to identify potential riders or drivers with whom to share rides.

16 (mm) The personally identifying information of current or former
17 participants or applicants in a paratransit or other transit service
18 operated for the benefit of persons with disabilities or elderly
19 persons.

20 (nn) The personally identifying information of persons who acquire
21 and use transit passes and other fare payment media including, but not
22 limited to, stored value smart cards and magnetic strip cards, except
23 that an agency may disclose this information to a person, employer,
24 educational institution, or other entity that is responsible, in whole
25 or in part, for payment of the cost of acquiring or using a transit
26 pass or other fare payment media, or to the news media when reporting
27 on public transportation or public safety. This information may also
28 be disclosed at the agency's discretion to governmental agencies or
29 groups concerned with public transportation or public safety.

30 (oo) Proprietary financial and commercial information that the
31 submitting entity, with review by the department of health,
32 specifically identifies at the time it is submitted and that is
33 provided to or obtained by the department of health in connection with
34 an application for, or the supervision of, an antitrust exemption
35 sought by the submitting entity under RCW 43.72.310. If a request for
36 such information is received, the submitting entity must be notified of
37 the request. Within ten business days of receipt of the notice, the
38 submitting entity shall provide a written statement of the continuing
39 need for confidentiality, which shall be provided to the requester.

1 Upon receipt of such notice, the department of health shall continue to
2 treat information designated under this section as exempt from
3 disclosure. If the requester initiates an action to compel disclosure
4 under this chapter, the submitting entity must be joined as a party to
5 demonstrate the continuing need for confidentiality.

6 (pp) Records maintained by the board of industrial insurance
7 appeals that are related to appeals of crime victims' compensation
8 claims filed with the board under RCW 7.68.110.

9 (qq) Financial and commercial information supplied by or on behalf
10 of a person, firm, corporation, or entity under chapter 28B.95 RCW
11 relating to the purchase or sale of tuition units and contracts for the
12 purchase of multiple tuition units.

13 (rr) Any records of investigative reports prepared by any state,
14 county, municipal, or other law enforcement agency pertaining to sex
15 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
16 defined in RCW 71.09.020, which have been transferred to the Washington
17 association of sheriffs and police chiefs for permanent electronic
18 retention and retrieval pursuant to RCW 40.14.070(2)(b).

19 (ss) Credit card numbers, debit card numbers, electronic check
20 numbers, card expiration dates, or bank or other financial account
21 numbers supplied to an agency for the purpose of electronic transfer of
22 funds, except when disclosure is expressly required by law.

23 (tt) Financial information, including but not limited to account
24 numbers and values, and other identification numbers supplied by or on
25 behalf of a person, firm, corporation, limited liability company,
26 partnership, or other entity related to an application for a liquor
27 license, gambling license, or lottery retail license.

28 (uu) Records maintained by the employment security department and
29 subject to chapter 50.13 RCW if provided to another individual or
30 organization for operational, research, or evaluation purposes.

31 (vv) Individually identifiable information received by the work
32 force training and education coordinating board for research or
33 evaluation purposes.

34 (ww) Those portions of records containing specific and unique
35 vulnerability assessments or specific and unique response plans, either
36 of which is intended to prevent or mitigate criminal terrorist acts as
37 defined in RCW 70.74.285, the public disclosure of which would have a
38 substantial likelihood of threatening public safety.

1 (xx) Commercial fishing catch data from logbooks required to be
2 provided to the department of fish and wildlife under RCW 77.12.047,
3 when the data identifies specific catch location, timing, or
4 methodology and the release of which would result in unfair competitive
5 disadvantage to the commercial fisher providing the catch data.
6 However, this information may be released to government agencies
7 concerned with the management of fish and wildlife resources.

8 (yy) Sensitive wildlife data obtained by the department of fish and
9 wildlife. However, sensitive wildlife data may be released to
10 government agencies concerned with the management of fish and wildlife
11 resources. Sensitive wildlife data includes:

12 (i) The nesting sites or specific locations of endangered species
13 designated under RCW 77.12.020, or threatened or sensitive species
14 classified by rule of the department of fish and wildlife;

15 (ii) Radio frequencies used in, or locational data generated by,
16 telemetry studies; or

17 (iii) Other location data that could compromise the viability of a
18 specific fish or wildlife population, and where at least one of the
19 following criteria are met:

20 (A) The species has a known commercial or black market value;

21 (B) There is a history of malicious take of that species; or

22 (C) There is a known demand to visit, take, or disturb, and the
23 species behavior or ecology renders it especially vulnerable or the
24 species has an extremely limited distribution and concentration.

25 (zz) The personally identifying information of persons who acquire
26 recreational licenses under RCW 77.32.010 or commercial licenses under
27 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
28 department, and type of license, endorsement, or tag. However, the
29 department of fish and wildlife may disclose personally identifying
30 information to:

31 (i) Government agencies concerned with the management of fish and
32 wildlife resources;

33 (ii) The department of social and health services, child support
34 division, and to the department of licensing in order to implement RCW
35 77.32.014 and 46.20.291; and

36 (iii) Law enforcement agencies for the purpose of firearm
37 possession enforcement under RCW 9.41.040.

38 (aaa) Information obtained by the health care authority or the
39 pharmacy and therapeutics committee under RCW 41.05.026.

1 (2) Except for information described in subsection (1)(c)(i) of
2 this section and confidential income data exempted from public
3 inspection pursuant to RCW 84.40.020, the exemptions of this section
4 are inapplicable to the extent that information, the disclosure of
5 which would violate personal privacy or vital governmental interests,
6 can be deleted from the specific records sought. No exemption may be
7 construed to permit the nondisclosure of statistical information not
8 descriptive of any readily identifiable person or persons.

9 (3) Inspection or copying of any specific records exempt under the
10 provisions of this section may be permitted if the superior court in
11 the county in which the record is maintained finds, after a hearing
12 with notice thereof to every person in interest and the agency, that
13 the exemption of such records is clearly unnecessary to protect any
14 individual's right of privacy or any vital governmental function.

15 (4) Agency responses refusing, in whole or in part, inspection of
16 any public record shall include a statement of the specific exemption
17 authorizing the withholding of the record (or part) and a brief
18 explanation of how the exemption applies to the record withheld.

19 NEW SECTION. **Sec. 18.** A new section is added to chapter 41.05 RCW
20 to read as follows:

21 (1) The administrator is authorized to engage in consolidated
22 prescription drug purchasing. The authority granted the administrator
23 by this section shall be liberally construed to achieve the purposes of
24 this act.

25 (2) Within one year following initial adoption of the preferred
26 drug list for state purchased health care, units of local government,
27 private entities, and individuals who lack prescription drug coverage
28 must be offered an opportunity to participate on a purely voluntary
29 basis in the purchasing cooperative resulting from adoption of the
30 preferred drug list. The administrator may charge reasonable
31 administrative fees to units of local government and private entities
32 who choose to participate in the purchasing cooperative.

33 (3) For purposes of this section, "voluntary participation" for
34 individuals who lack prescription drug coverage means that, following
35 payment of a reasonable annual enrollment fee, these individuals can
36 benefit from any price discounts obtained from prescription drug
37 manufacturers through adoption of the preferred drug list. The
38 administrator must develop mechanisms to ensure that pharmacies filling

1 prescriptions for individuals participating voluntarily in the
2 purchasing cooperative recover any discounts given to these individuals
3 through their participation in the cooperative.

4 (4) The administrator shall establish an advisory committee
5 representing units of local government, organized labor, private
6 entities, and consumers to develop an implementation plan for the
7 opportunity to participate as authorized by this subsection (4). The
8 advisory committee shall submit an implementation plan to the
9 appropriate committees of the senate and house of representatives by
10 September 15, 2003.

11 NEW SECTION. **Sec. 19.** A new section is added to chapter 41.05 RCW
12 to read as follows:

13 The consolidated prescription drug purchasing account is created in
14 the custody of the state treasurer. All receipts from the fees from
15 the preferred drug purchasing cooperative created in section 18 of this
16 act must be deposited into the account. Expenditures from the account
17 may be used only for the purposes of this act. Only the administrator
18 or the administrator's designee may authorize expenditures from the
19 account. The account is subject to allotment procedures under chapter
20 43.88 RCW, but an appropriation is not required for expenditures.

21 NEW SECTION. **Sec. 20.** A new section is added to chapter 41.05 RCW
22 to read as follows:

23 The administrator, in concert with agencies involved in state
24 purchased health care, must design and implement at least two, but not
25 more than five, pilot disease management programs for persons covered
26 through state purchased health care programs. The programs must begin
27 operation by July 1, 2003.

28 (1) The administrator, in concert with agencies involved in state
29 purchased health care, must determine the disease groups most
30 appropriate for disease management and the state purchased health care
31 programs to which the disease management programs will apply, after
32 reviewing claims and cost information and research on the effectiveness
33 of disease management programs. The following disease groups should
34 first be considered for disease management programs: Asthma, diabetes,
35 cardiovascular disease, malignancies, mental disorders, obesity,
36 hemophilia, renal disease, transplants, intervertebral disc disorders,
37 and populations at highest risk of improper use of medication.

1 (2) Each pilot disease management program must include physicians,
2 pharmacists, and other appropriate health care providers in the design
3 and implementation of the program. Drug classes exempted under section
4 4(2) of this act must be integrated into disease management programs as
5 appropriate. Providers may not be required to participate in a disease
6 management program as a condition of contracting to provide state
7 purchased health care services.

8 (3) The programs must incorporate an evaluation component that
9 allows the administrator to identify successful programs that are
10 candidates for statewide expansion. The evaluation should consider the
11 impact of the disease management program upon the health status of
12 participating enrollees, the use of health services by these enrollees,
13 the coverage of comorbidities associated with the selected disease
14 group, and the overall costs of treating these enrollees.

15 (4) In addition to the pilot projects established under this
16 section, the administrator and the secretary of the department of
17 social and health services must give strong consideration to including
18 participation in the alliance working for antibiotic resistance
19 education project as a provision of managed care plan contracts for the
20 public employees' benefits board, basic health plan, medical
21 assistance, or children's health insurance programs for contract years
22 beginning in calendar year 2003.

23 NEW SECTION. **Sec. 21.** A new section is added to chapter 41.05 RCW
24 to read as follows:

25 Any savings to health care benefit programs administered by the
26 public employees' benefits board that result from implementation of the
27 prescription drug education and utilization system under this act must
28 be deposited into the public employees' and retirees' insurance account
29 established under RCW 41.05.120. In developing its annual budget
30 proposal for public employee health benefits, the administrator must
31 consider the extent to which implementation of the preferred drug
32 program has moderated increases in public employee health benefit costs
33 and attempt to reflect that moderation in employee cost-sharing.

34 NEW SECTION. **Sec. 22.** A new section is added to chapter 41.05 RCW
35 to read as follows:

36 (1) By January 1, 2003, the administrator must submit to the
37 governor and the health care and fiscal committees of the legislature

1 a progress report regarding the implementation of the prescription drug
2 education and utilization system. The report must include a
3 description of the extent to which the evidence-based review has been
4 incorporated into the preferred drug list, and any prior authorization
5 policies or procedures that have been developed.

6 (2) By January 1, 2004, and January 1, 2005, the administrator must
7 submit to the governor and the health care and fiscal committees of the
8 legislature a report on the impacts of the prescription drug education
9 and utilization system. The report must address whether the activities
10 under this act have succeeded in promoting improved clinical outcomes
11 and cost-effective drug utilization and report specifically on the
12 status and outcomes associated with the pilot disease management
13 programs established under section 20 of this act. The report must
14 include a description of the extent to which the evidence-based review
15 has been incorporated into the preferred drug list, and any prior
16 authorization policies or procedures that have been developed. The
17 report may present recommendations for modifications to the system, or
18 for additional strategies that should be pursued to promote therapeutic
19 and cost-effective utilization of prescription drugs by residents of
20 the state of Washington.

21 (3) By January 1, 2003, the secretary of the department of social
22 and health services shall submit to the governor and the health care
23 and fiscal committees of the legislature a report on implementation and
24 operation of the therapeutic consultation program. The report must
25 include, at a minimum, a description of the impact of the program on
26 medical assistance clients and providers and any cost savings
27 associated with the program, and recommendations as to when the program
28 should be discontinued, in whole or in part.

29 NEW SECTION. **Sec. 23.** A new section is added to chapter 41.05 RCW
30 to read as follows:

31 The administrator shall contract with an independent entity to
32 evaluate the implementation and impacts of the prescription drug
33 education and utilization system established in this act.

34 (1) The evaluation shall assess:

35 (a) The degree to which the program has influenced prescription
36 drug prescribing practices among health care providers in Washington,
37 including a description of how prescribing practices may have changed;

1 (b) The impact of the program on quality of care and clinical
2 outcomes for persons enrolled in state purchased health care programs;

3 (c) The extent to which the program has lessened administrative
4 burdens on health care providers participating in state purchased
5 health care programs;

6 (d) The impact of the program on prescription drug expenditures
7 across state purchased health care programs;

8 (e) The impact of the program on the utilization of, and
9 expenditures for, other health care services funded by state purchased
10 health care programs.

11 (2) The administrator may include the evaluation of disease
12 management programs required under section 20 of this act in the
13 evaluation under this section.

14 (3) The administrator shall make every effort to pursue and obtain
15 federal or private foundation funding for the evaluation from entities
16 such as the federal agency for health care research and quality or the
17 milbank memorial fund. To ensure that results of the evaluation are
18 objective and unbiased, private foundation funds derived from the
19 pharmaceutical industry may not be used to fund the evaluation.

20 (4) The results of the evaluation shall be submitted to the
21 governor and legislature by January 1, 2006.

22 NEW SECTION. **Sec. 24.** A new section is added to chapter 69.41 RCW
23 to read as follows:

24 Any pharmacist filling a prescription under the preferred drug list
25 program established under section 4 of this act or under section 18 of
26 this act from a prescriber who has endorsed the preferred drug list
27 must substitute the preferred drug for any nonpreferred drug in a given
28 therapeutic category, unless the prescriber has indicated on the
29 prescription that the nonpreferred drug must be dispensed as written,
30 in which case the pharmacist must dispense the nonpreferred drug as
31 written.

32 NEW SECTION. **Sec. 25.** A new section is added to chapter 41.05 RCW
33 to read as follows:

34 Nothing in this act preempts state-owned or managed hospitals
35 licensed under chapter 70.41 RCW from aggregate purchasing through
36 other programs. These hospitals may choose to participate in the

1 preferred drug purchasing program under this act if drugs can be
2 obtained at lower cost.

3 NEW SECTION. **Sec. 26.** A new section is added to chapter 43.60A
4 RCW to read as follows:

5 Nothing in this act preempts state-owned facilities and programs
6 operated by the department of veterans affairs from aggregate
7 purchasing through other programs. The department may choose to
8 participate in the preferred drug program under section 4 of this act
9 if drugs can be obtained at lower cost.

10 NEW SECTION. **Sec. 27.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 28.** If any part of this act is found to be in
15 conflict with federal requirements that are a prescribed condition to
16 the allocation of federal funds to the state, the conflicting part of
17 this act is inoperative solely to the extent of the conflict and with
18 respect to the agencies directly affected, and this finding does not
19 affect the operation of the remainder of this act in its application to
20 the agencies concerned. Rules adopted under this act must meet federal
21 requirements that are a necessary condition to the receipt of federal
22 funds by the state.

23 NEW SECTION. **Sec. 29.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 immediately.

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