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**SUBSTITUTE HOUSE BILL 2228**

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**State of Washington                      62nd Legislature                      2012 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Jenkins, Appleton, Reykdal, Stanford, Ryu, Maxwell, Pollet, Ormsby, Cody, Upthegrove, Roberts, Kagi, Wilcox, Ladenburg, and Hasegawa)

READ FIRST TIME 01/31/12.

1            AN ACT Relating to medication access for the uninsured; adding a  
2 new chapter to Title 69 RCW; and providing an effective date.

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

4            NEW SECTION.    **Sec. 1.**    The definitions in this section apply  
5 throughout this chapter unless the context clearly requires otherwise.

6            (1) "Department" means the department of health.

7            (2) "Drug manufacturer" means a facility licensed by the board of  
8 pharmacy under chapter 18.64 RCW that engages in the manufacture of  
9 drugs or devices.

10           (3) "Drug wholesaler" means a facility licensed by the board of  
11 pharmacy under chapter 18.64 RCW that buys drugs or devices for resale  
12 and distribution to corporations, individuals, or entities other than  
13 consumers.

14           (4) "Medical facility" means a hospital, pharmacy, nursing home,  
15 boarding home, adult family home, or medical clinic where the  
16 prescription drugs are under the control of a practitioner.

17           (5) "Person" means an individual, corporation, business trust,  
18 estate, trust, partnership, association, joint venture, government,

1 governmental subdivision or agency, or any other legal or commercial  
2 entity.

3 (6) "Pharmacist" means a person licensed by the board of pharmacy  
4 under chapter 18.64 RCW to practice pharmacy.

5 (7) "Pharmacy" means a facility licensed by the board of pharmacy  
6 under chapter 18.64 RCW in which the practice of pharmacy is conducted.

7 (8) "Practitioner" has the same meaning as in RCW 69.41.010.

8 (9) "Prescribing practitioner" means a person authorized to issue  
9 orders or prescriptions for legend drugs as listed in RCW 69.41.030.

10 (10) "Prescription drugs" has the same meaning as "legend drugs" as  
11 defined in RCW 69.41.010. The term includes cancer drugs and  
12 antirejection drugs. The term does not include controlled substances.

13 (11) "Supplies" means the supplies necessary to administer  
14 prescription drugs that are donated under the prescription drug  
15 redistribution program.

16 NEW SECTION. **Sec. 2.** Any practitioner, pharmacist, medical  
17 facility, drug manufacturer, or drug wholesaler may donate prescription  
18 drugs and supplies to a pharmacy for redistribution without  
19 compensation or the expectation of compensation to individuals who meet  
20 the prioritization criteria established in section 4 of this act.  
21 Donations of prescription drugs and supplies may be made on the  
22 premises of a pharmacy that elects to participate in the provisions of  
23 this chapter. A pharmacy that receives prescription drugs or supplies  
24 may distribute the prescription drugs or supplies to another pharmacy,  
25 pharmacist, or prescribing practitioner for use pursuant to the  
26 program.

27 NEW SECTION. **Sec. 3.** To be eligible for the immunity in section  
28 7 of this act, a person distributing donated prescription drugs under  
29 this chapter must:

30 (1) Meet all requirements in section 5 of this act and any  
31 applicable rules related to the return or exchange of prescription  
32 drugs or supplies adopted by the board of pharmacy;

33 (2) Maintain records of any prescription drugs and supplies donated  
34 to the pharmacy and subsequently dispensed by the pharmacy; and

35 (3) Identify itself to the public as participating in this chapter.

1        NEW SECTION.    **Sec. 4.**    Pharmacies, pharmacists, and prescribing  
2 practitioners that elect to dispense donated prescription drugs and  
3 supplies under this chapter shall give priority to individuals who are  
4 uninsured and at or below two hundred percent of the federal poverty  
5 level.    If an uninsured and low-income individual has not been  
6 identified as in need of available prescription drugs and supplies,  
7 those prescription drugs and supplies may be dispensed to other  
8 individuals expressing need.

9        NEW SECTION.    **Sec. 5.**    (1) Prescription drugs or supplies may be  
10 accepted and dispensed under this chapter if all of the following  
11 conditions are met:

12        (a) The prescription drug is in:

13            (i) Its original sealed and tamper evident packaging; or

14            (ii) An opened package if it contains single unit doses that remain  
15 intact;

16        (b) The prescription drug bears an expiration date that is more  
17 than six months after the date the prescription drug was donated;

18        (c) The prescription drug or supplies are inspected before the  
19 prescription drug or supplies are dispensed by a pharmacist employed by  
20 or under contract with the pharmacy, and the pharmacist determines that  
21 the prescription drug or supplies are not adulterated or misbranded;

22        (d) The prescription drug or supplies are prescribed by a  
23 practitioner for use by an eligible individual and are dispensed by a  
24 pharmacist; and

25        (e) Any other safety precautions established by the department have  
26 been satisfied.

27        (2)(a) If a person who donates prescription drugs or supplies to a  
28 pharmacy under this chapter receives a notice that the donated  
29 prescription drugs or supplies have been recalled, the person shall  
30 notify the pharmacy of the recall.

31        (b) If a pharmacy that receives and distributes donated  
32 prescription drugs to another pharmacy, pharmacist, or prescribing  
33 practitioner under this chapter receives notice that the donated  
34 prescription drugs or supplies have been recalled, the pharmacy shall  
35 notify the other pharmacy, pharmacist, or prescribing practitioner of  
36 the recall.

1 (c) If a person collecting or distributing donated prescription  
2 drugs or supplies under this chapter receives a recall notice from the  
3 drug manufacturer or the federal food and drug administration for  
4 donated prescription drugs or supplies, the person shall immediately  
5 remove all recalled medications from stock and comply with the  
6 instructions in the recall notice.

7 (3) Prescription drugs and supplies donated under this chapter may  
8 not be resold.

9 (4) Prescription drugs and supplies dispensed under this chapter  
10 shall not be eligible for reimbursement under the medical assistance  
11 program.

12 NEW SECTION. **Sec. 6.** (1) The department must adopt rules  
13 establishing forms and procedures to reasonably verify eligibility and  
14 prioritize patients seeking to receive donated prescription drugs and  
15 supplies. A patient's eligibility may be determined by a form signed  
16 by the patient certifying that the patient is uninsured and at or below  
17 two hundred percent of the federal poverty level.

18 (2) The department may establish any other rules necessary to  
19 implement this chapter.

20 NEW SECTION. **Sec. 7.** (1) Except as provided in subsection (3) of  
21 this section, a drug manufacturer acting in good faith shall not be  
22 subject to criminal prosecution or liable for civil damages for injury,  
23 death, or loss to a person or property for matters related to the  
24 donation, acceptance, or dispensing of a prescription drug manufactured  
25 by the drug manufacturer that is donated under this chapter, including  
26 liability for failure to transfer or communicate product or consumer  
27 information or the expiration date of the donated prescription drugs or  
28 supplies, other than acts or omissions constituting gross negligence or  
29 willful or wanton misconduct.

30 (2) Any person or entity, other than a drug manufacturer subject to  
31 subsection (1) of this section, which, without compensation or the  
32 expectation of compensation, exercises reasonable care in donating,  
33 accepting, or distributing prescription drugs under this chapter is  
34 immune from criminal prosecution, professional discipline, or civil  
35 liability of any kind for any injury, death, or loss to any person or

1 property relating to such activities other than acts or omissions  
2 constituting gross negligence or willful or wanton misconduct.

3 (3) Subsection (2) of this section applies to a drug manufacturer  
4 donating prescription drugs under this chapter, but only to the drug  
5 manufacturer's donation activity. In all other cases, subsection (1)  
6 of this section applies.

7 NEW SECTION. **Sec. 8.** Access to prescription drugs and supplies  
8 under this chapter is subject to availability. Nothing in this chapter  
9 establishes an entitlement to receive prescription drugs and supplies  
10 through the program.

11 NEW SECTION. **Sec. 9.** Nothing in this chapter restricts the use of  
12 samples by a practitioner during the course of the practitioner's  
13 duties at a medical facility or pharmacy.

14 NEW SECTION. **Sec. 10.** Nothing in this chapter authorizes the  
15 resale of prescription drugs by any person.

16 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act  
17 constitute a new chapter in Title 69 RCW.

18 NEW SECTION. **Sec. 12.** This act takes effect July 1, 2013.

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