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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-4438.2/02 2nd draft

ATTY/TYPIST: ML:seg

BRIEF DESCRIPTION:

2 **2SHB 2431** - H AMD  
3 By Representative Cody

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5 Strike everything after the enacting clause and insert the  
6 following:

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

16       (2) It is the intent of the legislature to develop a comprehensive  
17 prescription drug education and utilization system in Washington state  
18 that will ensure best prescribing practices and pharmaceutical use,  
19 reduce administrative burdens on providers, increase consumer  
20 understanding of and compliance with appropriate use of prescription  
21 drugs, help to control increases in consumer and state health care  
22 spending, and improve prescription drug purchasing through a sound  
23 evidence-based process that evaluates the therapeutic value and cost-  
24 effectiveness of prescription drugs.

25       **Sec. 2.** 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

1 department of corrections, the department of veterans affairs, and  
2 local school districts.

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

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

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

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

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

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

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

1       (b) Persons who separate from employment with a school district or  
2 educational service district on or after October 1, 1993, and  
3 immediately upon separation receive a retirement allowance under  
4 chapter 41.32, 41.35, or 41.40 RCW;

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

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

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

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

18       (12) "Plan year" means the time period established by the  
19 authority.

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

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

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

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

25 and who are at least age fifty-five and have at least ten years of  
26 service under the teachers' retirement system plan 3 as defined in RCW  
27 41.32.010(40), the Washington school employees' retirement system plan  
28 3 as defined in RCW 41.35.010, or the public employees' retirement  
29 system plan 3 as defined in RCW 41.40.010.

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

36       (15) "Preferred drug" means the drug or drugs of choice within a  
37 selected therapeutic class, as determined by the process established in  
38 section 3 of this act.

1       (16) "Prior authorization" means a process requiring the prescriber  
2 or the dispenser to verify with an agency participating in the  
3 preferred drug program or its contractor that the proposed medical use  
4 of a particular medicine for a patient meets predetermined criteria for  
5 payment by the program.

6       NEW SECTION. **Sec. 3.** 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 for state purchased health care programs. In  
19 implementing the preferred drug program, the administrator may adopt  
20 rules, and must:

21       (1) Use a nationally recognized listing of therapeutic classes of  
22 drugs, such as those published by first databank or the American  
23 society of health system pharmacists, to place drugs into therapeutic  
24 classes;

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

28       (3) 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       (4) 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 dossier must include any  
4 available data, research, or information on the effectiveness of the  
5 drug for treatment of women and racial and ethnic minorities. The  
6 pharmacy and therapeutics committee or the administrator shall request  
7 the dossier from a manufacturer within thirty days of food and drug  
8 administration approval of any new drug that is in a therapeutic class  
9 included in the preferred drug list. The pharmacy and therapeutics  
10 committee or the authority must provide the dossier to the contracted  
11 entity, who will base its determinations on the strength of scientific  
12 evidence and standards of practice that include, but are not limited  
13 to:

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

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

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

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

25 (e) Thoroughly evaluating the benefits, risks, and potential  
26 outcomes for patients, including adverse drug events. To expedite  
27 development of the preferred drug list, the administrator, the  
28 independent entity chosen under this subsection, and the pharmacy and  
29 therapeutics committee must make maximum use of sound evidence-based  
30 prescription drug reviews that have been completed by independent  
31 experts, giving consideration to the needs and characteristics of  
32 populations, including racial and ethnic minorities, served by state  
33 purchased health care programs;

34 (5) Submit the determinations made under subsection (4) of this  
35 section to the pharmacy and therapeutics committee established in  
36 section 5 of this act, which must incorporate them into recommendations  
37 to the administrator as provided in section 5 of this act;

38 (6) Develop a preferred drug list based on the recommendations of  
39 the pharmacy and therapeutics committee. For each therapeutic class

1 considered, the list must identify the drugs determined to be  
2 essentially equal and, from among those, which ones are the preferred  
3 drugs. If a particular class of drugs will be used in a disease  
4 management program developed under section 12 of this act, an effort  
5 shall be made to ensure that the preferred drugs in that class are  
6 consistent with protocols or algorithms used in the disease management  
7 program. The pharmacy and therapeutics committee or the administrator  
8 will revise the preferred drug list annually or as needed, to be  
9 determined by new drug approvals, recalls, or new scientific evidence  
10 that may change a given drug's status or use, or as necessary to meet  
11 the objectives of this act. Each state agency that purchases or  
12 provides health care services must adopt the preferred drug list  
13 consistent with the scope of benefits offered through programs  
14 administered by that agency;

15 (7) Directly or through interagency agreement, distribute the  
16 initial preferred drug list, and any subsequent revisions, to every  
17 provider with prescriptive authority with whom an agency has a core  
18 provider agreement, including with it a description of how the list was  
19 developed, how it will be used, and requesting his or her endorsement;

20 (8) Ensure that a prescriber who does not endorse the list must do  
21 so in writing to the administrator and is subject to prior  
22 authorization as provided in section 6(2) of this act;

23 (9) Require any pharmacist filling a prescription under the  
24 preferred drug program established under section 3 or 10 of this act  
25 from a prescriber who has endorsed the preferred drug list to  
26 substitute a preferred drug for any nonpreferred drug in a given  
27 therapeutic category, unless the prescriber has indicated on the  
28 prescription that the nonpreferred drug must be dispensed as written,  
29 in which case the pharmacist must dispense the nonpreferred drug as  
30 written. When a substitution is made, or a preferred drug within a  
31 therapeutic class changes, the prescriber will be notified in writing  
32 by the dispensing pharmacist of the specific drug and dose dispensed;

33 (10) The administrator must either provide each pharmacy with a  
34 listing of the prescribers who have endorsed the preferred drug list or  
35 include that information in the electronic claim adjudication system of  
36 each state drug purchasing program so that the pharmacist may easily  
37 determine when substitution of a preferred drug has been authorized.

1        **NEW SECTION.** **Sec. 4.** A new section is added to chapter 41.05 RCW  
2 to read as follows:

3        To complement the preferred drug program established in section 3  
4 of this act, the administrator must, in concert with state agencies  
5 involved in state purchased health care:

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

10          (2) By July 1, 2004, use electronic drug claims processing and  
11 information retrieval systems to analyze pharmacy and medical claims to  
12 identify those prescribers who request that prescriptions for  
13 nonpreferred drugs be dispensed as written on a more frequent basis  
14 than their peers. In consultation with the Washington state medical  
15 association and other prescriber organizations, the administrator must  
16 develop strategies to provide early educational information to the  
17 identified prescribers as needed to improve prescribing practices and  
18 prescription drug utilization; and

19          (3) Conduct a feasibility study of developing a system to  
20 periodically provide a complete drug profile of persons covered through  
21 state purchased health care programs to health care providers caring  
22 for those persons.

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

25            (1) A pharmacy and therapeutics committee is established to assist  
26 the administrator, and other agencies involved in state purchased  
27 health care, in the development and implementation of a preferred drug  
28 program.

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

31            (a) Four physicians licensed under chapter 18.57 or 18.71 RCW in  
32 this state and actively engaged in the practice of medicine, at least  
33 one of whom is employed by a carrier as defined in RCW 48.43.005,  
34 chosen from a list of nominees provided by the Washington state medical  
35 association;

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

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

4       (d) One person with background experience, education, or expertise  
5 in pharmacoconomics.

6       (3) No member of the committee may be employed by a pharmaceutical  
7 manufacturer, or be employed by any agency administering "state  
8 purchased health care," as defined in RCW 41.05.011. As a condition of  
9 appointment to the committee, each member must disclose any potential  
10 conflict of interest, including receipt of any remuneration, grants, or  
11 other compensation from a pharmaceutical manufacturer.

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

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

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

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

36      (8) The members of the committee are immune from civil liability  
37 for any official acts performed in good faith as members of the  
38 committee.

39      (9) The committee must:

1       (a) Recommend to the administrator, and other agencies involved in  
2 state purchased health care, which drugs should be identified as  
3 preferred drugs from among those determined, pursuant to section 3(4)  
4 of this act, to be essentially equal in terms of safety, efficacy, and  
5 outcomes. In updating the preferred drug list, the pharmacy and  
6 therapeutics committee shall complete its review and submit  
7 recommendations to the administrator within one hundred twenty days  
8 from the date of receipt of the dossier under section 3 of this act.  
9 In making these recommendations, the committee must consider, among  
10 other factors, the relative cost-effectiveness of the drugs being  
11 considered, and the impact of each drug on the state's overall health  
12 care expenditures.

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

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

19       NEW SECTION. **Sec. 6.** A new section is added to chapter 41.05 RCW  
20 to read as follows:

21       The administrator must design, in concert with state agencies  
22 involved in state purchased fee-for-service health care, a uniform drug  
23 utilization review program for state purchased health care that meets  
24 the requirement of Title XIX of the social security act. Each state  
25 agency that purchases or provides health care services must adopt the  
26 uniform drug utilization review program for its fee-for-service  
27 purchasing consistent with the scope of benefits offered through  
28 programs administered by that agency, and may implement it directly or  
29 by contract or interagency agreement. The program must include but is  
30 not limited to prescription drug review, management, and education,  
31 including prospective, concurrent, and retrospective review. The  
32 program shall improve the quality of pharmaceutical care by ensuring  
33 that prescription drugs provided through state purchased fee-for-  
34 service health care programs advance quality clinical outcomes and are  
35 appropriate, medically necessary, and not likely to produce adverse  
36 medical results. Drugs exempted from the preferred drug list under  
37 section 3(3) of this act may be included in the drug utilization review  
38 program. The program also must identify clients utilizing large

1 numbers of prescription drugs, and develop strategies to enhance  
2 coordination of care for these individuals.

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

15       (2) The administrator and state purchased health care programs may  
16 use prior authorization as a means of concurrent drug utilization  
17 review.

18           (a) Upon incorporation of a therapeutic class into the preferred  
19 drug list, existing prior authorization procedures applicable to that  
20 therapeutic class shall cease, and the prior authorization provisions  
21 of this section shall apply.

22           (b) A drug in a class that has been reviewed for the preferred drug  
23 list established under section 3 of this act may be subject to prior  
24 authorization in only limited circumstances, based upon factors such as  
25 the relative cost-effectiveness of the drug, and whether the drug has  
26 a narrow therapeutic indication, presents a risk of inappropriate  
27 utilization, or poses significant safety concerns. Consideration of  
28 the cost-effectiveness of a drug cannot be based solely upon the price  
29 of the drug itself.

30           (c) A drug newly approved by the federal food and drug  
31 administration that has not yet been reviewed under section 3 of this  
32 act may be subject to prior authorization where clinically indicated to  
33 avoid health risks to patients. Drugs identified in section 3(3) of  
34 this act may be subject to prior authorization where clinically  
35 indicated.

36           (d) Any prior authorization process must include clear standards  
37 and procedures for a process to ensure consumer access to medically  
38 necessary drugs. No preferred drug list can account for every  
39 therapeutic eventuality or unique patient need. Prior authorization

1 procedures must neither pose a substantial barrier to the prescribing  
2 health care professional nor hinder the consumer's ability to receive  
3 necessary medication in a safe and timely manner. A prior  
4 authorization program must provide for: (i) A response within twenty-  
5 four hours after receipt of a request for prior authorization; and (ii)  
6 the dispensing of at least a seventy-two hour supply of the requested  
7 drug in an emergency situation.

8 (e) A prescriber who does not endorse the preferred drug list is  
9 subject to a broader scope of prior authorization as determined by the  
10 agency administering a state purchased health care program.

11 (3) Nothing in chapter 42.30 RCW prevents the drug utilization  
12 review committee from holding an executive session during a regular or  
13 special meeting of the committee to review and discuss proprietary or  
14 confidential nonpublished data that relates to development or  
15 implementation of the drug utilization review program.

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

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

28 **Sec. 7.** RCW 42.30.110 and 2001 c 216 s 1 are each amended to read  
29 as follows:

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

33 (a) To consider matters affecting national security;

34 (b) To consider the selection of a site or the acquisition of real  
35 estate by lease or purchase when public knowledge regarding such  
36 consideration would cause a likelihood of increased price;

37 (c) To consider the minimum price at which real estate will be  
38 offered for sale or lease when public knowledge regarding such

1 consideration would cause a likelihood of decreased price. However,  
2 final action selling or leasing public property shall be taken in a  
3 meeting open to the public;

4 (d) To review negotiations on the performance of publicly bid  
5 contracts when public knowledge regarding such consideration would  
6 cause a likelihood of increased costs;

7 (e) To consider, in the case of an export trading company,  
8 financial and commercial information supplied by private persons to the  
9 export trading company;

10 (f) To receive and evaluate complaints or charges brought against  
11 a public officer or employee. However, upon the request of such  
12 officer or employee, a public hearing or a meeting open to the public  
13 shall be conducted upon such complaint or charge;

14 (g) To evaluate the qualifications of an applicant for public  
15 employment or to review the performance of a public employee. However,  
16 subject to RCW 42.30.140(4), discussion by a governing body of  
17 salaries, wages, and other conditions of employment to be generally  
18 applied within the agency shall occur in a meeting open to the public,  
19 and when a governing body elects to take final action hiring, setting  
20 the salary of an individual employee or class of employees, or  
21 discharging or disciplining an employee, that action shall be taken in  
22 a meeting open to the public;

23 (h) To evaluate the qualifications of a candidate for appointment  
24 to elective office. However, any interview of such candidate and final  
25 action appointing a candidate to elective office shall be in a meeting  
26 open to the public;

27 (i) To discuss with legal counsel representing the agency matters  
28 relating to agency enforcement actions, or to discuss with legal  
29 counsel representing the agency litigation or potential litigation to  
30 which the agency, the governing body, or a member acting in an official  
31 capacity is, or is likely to become, a party, when public knowledge  
32 regarding the discussion is likely to result in an adverse legal or  
33 financial consequence to the agency.

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

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

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

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

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

17      (k) To consider, in the case of the state investment board,  
18 financial and commercial information when the information relates to  
19 the investment of public trust or retirement funds and when public  
20 knowledge regarding the discussion would result in loss to such funds  
21 or in private loss to the providers of this information;

22       (l) To consider, in the case of the pharmacy and therapeutics  
23 committee established in section 5 of this act or the drug utilization  
24 review committee established in section 6 of this act, proprietary or  
25 confidential nonpublished information that relates to the development  
26 or revision of the preferred drug list, the designation of a drug for  
27 prior authorization, or the conduct of the drug utilization review  
28 program.

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

34      **Sec. 8.** RCW 41.05.026 and 1991 c 79 s 1 are each amended to read  
35 as follows:

36       (1) When soliciting proposals for the purpose of awarding contracts  
37 for goods or services, the administrator shall, upon written request by  
38 the bidder, exempt from public inspection and copying such proprietary

1 data, trade secrets, or other information contained in the bidder's  
2 proposal that relate to the bidder's unique methods of conducting  
3 business or of determining prices or premium rates to be charged for  
4 services under terms of the proposal.

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

11 (3) Proprietary information submitted upon request of the  
12 administrator or the pharmacy and therapeutics committee established  
13 under section 5 of this act by any vendor or pharmaceutical  
14 manufacturer for the purpose of analyzing and developing prescription  
15 drug education and utilization systems, a preferred drug list, a drug  
16 utilization review program, and consolidated prescription drug  
17 purchasing for state purchased health care programs may be withheld at  
18 any time from public inspection when necessary to preserve trade  
19 secrets or prevent unfair competition.

20 (4) The board, the pharmacy and therapeutics committee established  
21 in section 5 of this act, or the drug utilization review committee  
22 established in section 6 of this act may hold an executive session in  
23 accordance with chapter 42.30 RCW during any regular or special meeting  
24 to discuss information submitted in accordance with subsection (1)  
25 ((or)), (2), or (3) of this section.

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

29 **Sec. 9.** RCW 42.17.310 and 2001 c 278 s 1, 2001 c 98 s 2, and 2001  
30 c 70 s 1 are each reenacted and amended to read as follows:

31 (1) The following are exempt from public inspection and copying:  
32 (a) Personal information in any files maintained for students in  
33 public schools, patients or clients of public institutions or public  
34 health agencies, or welfare recipients.

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

1       (c) Information required of any taxpayer in connection with the  
2 assessment or collection of any tax if the disclosure of the  
3 information to other persons would (i) be prohibited to such persons by  
4 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
5 taxpayer's right to privacy or result in unfair competitive  
6 disadvantage to the taxpayer.

7       (d) Specific intelligence information and specific investigative  
8 records compiled by investigative, law enforcement, and penology  
9 agencies, and state agencies vested with the responsibility to  
10 discipline members of any profession, the nondisclosure of which is  
11 essential to effective law enforcement or for the protection of any  
12 person's right to privacy.

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

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

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

32      (h) Valuable formulae, designs, drawings, computer source code or  
33 object code, and research data obtained by any agency within five years  
34 of the request for disclosure when disclosure would produce private  
35 gain and public loss.

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

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

5       (k) Records, maps, or other information identifying the location of  
6 archaeological sites in order to avoid the looting or depredation of  
7 such sites.

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

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

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

20      (o) Financial and commercial information and records supplied by  
21 private persons pertaining to export services provided pursuant to  
22 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
23 export projects pursuant to RCW 43.23.035.

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

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

29      (r) Financial and commercial information and records supplied by  
30 businesses or individuals during application for loans or program  
31 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
32 or during application for economic development loans or program  
33 services provided by any local agency.

34      (s) Membership lists or lists of members or owners of interests of  
35 units in timeshare projects, subdivisions, camping resorts,  
36 condominiums, land developments, or common-interest communities  
37 affiliated with such projects, regulated by the department of  
38 licensing, in the files or possession of the department.

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

4       (u) The residential addresses or residential telephone numbers of  
5 employees or volunteers of a public agency which are held by any public  
6 agency in personnel records, public employment related records, or  
7 volunteer rosters, or are included in any mailing list of employees or  
8 volunteers of any public agency.

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

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

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

36       (y) Information obtained by the board of pharmacy or the department  
37 of health and its representatives as provided in RCW 69.41.044,  
38 69.41.280, and 18.64.420.

1       (z) Financial information, business plans, examination reports, and  
2 any information produced or obtained in evaluating or examining a  
3 business and industrial development corporation organized or seeking  
4 certification under chapter 31.24 RCW.

5       (aa) Financial and commercial information supplied to the state  
6 investment board by any person when the information relates to the  
7 investment of public trust or retirement funds and when disclosure  
8 would result in loss to such funds or in private loss to the providers  
9 of this information.

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

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

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

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

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

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

30      (hh) Information and documents created specifically for, and  
31 collected and maintained by a quality improvement committee pursuant to  
32 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW  
33 4.24.250, regardless of which agency is in possession of the  
34 information and documents.

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

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

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

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

11       (mm) The personally identifying information of current or former  
12 participants or applicants in a paratransit or other transit service  
13 operated for the benefit of persons with disabilities or elderly  
14 persons.

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

25       (oo) Proprietary financial and commercial information that the  
26 submitting entity, with review by the department of health,  
27 specifically identifies at the time it is submitted and that is  
28 provided to or obtained by the department of health in connection with  
29 an application for, or the supervision of, an antitrust exemption  
30 sought by the submitting entity under RCW 43.72.310. If a request for  
31 such information is received, the submitting entity must be notified of  
32 the request. Within ten business days of receipt of the notice, the  
33 submitting entity shall provide a written statement of the continuing  
34 need for confidentiality, which shall be provided to the requester.  
35 Upon receipt of such notice, the department of health shall continue to  
36 treat information designated under this section as exempt from  
37 disclosure. If the requester initiates an action to compel disclosure  
38 under this chapter, the submitting entity must be joined as a party to  
39 demonstrate the continuing need for confidentiality.

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

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

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

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

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

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

26       (vv) Individually identifiable information received by the work  
27 force training and education coordinating board for research or  
28 evaluation purposes.

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

34       (xx) Commercial fishing catch data from logbooks required to be  
35 provided to the department of fish and wildlife under RCW 77.12.047,  
36 when the data identifies specific catch location, timing, or  
37 methodology and the release of which would result in unfair competitive  
38 disadvantage to the commercial fisher providing the catch data.

1 However, this information may be released to government agencies  
2 concerned with the management of fish and wildlife resources.

3 (yy) Sensitive wildlife data obtained by the department of fish and  
4 wildlife. However, sensitive wildlife data may be released to  
5 government agencies concerned with the management of fish and wildlife  
6 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

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

26 (i) Government agencies concerned with the management of fish and  
27 wildlife resources;

28 (ii) The department of social and health services, child support  
29 division, and to the department of licensing in order to implement RCW  
30 77.32.014 and 46.20.291; and

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

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

35 (2) Except for information described in subsection (1)(c)(i) of  
36 this section and confidential income data exempted from public  
37 inspection pursuant to RCW 84.40.020, the exemptions of this section  
38 are inapplicable to the extent that information, the disclosure of  
39 which would violate personal privacy or vital governmental interests,

1 can be deleted from the specific records sought. No exemption may be  
2 construed to permit the nondisclosure of statistical information not  
3 descriptive of any readily identifiable person or persons.

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

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

14 **NEW SECTION.** **Sec. 10.** A new section is added to chapter 41.05 RCW  
15 to read as follows:

16 (1) The administrator is authorized to engage in consolidated  
17 prescription drug purchasing. The authority granted the administrator  
18 by this section shall be liberally construed to achieve the purposes of  
19 this act.

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

28 (3) For purposes of this section, "voluntary participation" for  
29 individuals who lack prescription drug coverage means that, following  
30 payment of a reasonable annual enrollment fee, these individuals can  
31 benefit from any price discounts obtained from prescription drug  
32 manufacturers through adoption of the preferred drug list. The  
33 administrator must develop mechanisms to ensure that pharmacies filling  
34 prescriptions for individuals participating voluntarily in the  
35 purchasing cooperative recover any discounts given to these individuals  
36 through their participation in the cooperative.

37 (4) The administrator shall establish an advisory committee  
38 representing units of local government, organized labor, private

1 entities, retail pharmacists, and consumers to develop an  
2 implementation plan for the opportunity to participate as authorized by  
3 this section. The advisory committee shall submit an implementation  
4 plan to the appropriate committees of the senate and house of  
5 representatives by September 15, 2003.

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

8           The consolidated prescription drug purchasing account is created in  
9 the custody of the state treasurer. All receipts from the fees from  
10 the preferred drug purchasing cooperative created in section 10 of this  
11 act must be deposited into the account. Expenditures from the account  
12 may be used only for the purposes of this act. Only the administrator  
13 or the administrator's designee may authorize expenditures from the  
14 account. The account is subject to allotment procedures under chapter  
15 43.88 RCW, but an appropriation is not required for expenditures.

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

18           The administrator, in concert with agencies involved in state  
19 purchased health care, must implement at least two disease management  
20 programs for persons covered through state purchased health care  
21 programs. The programs must begin operation by July 1, 2003.

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

32           (2) Each disease management program must include physicians,  
33 pharmacists, and other appropriate health care providers in the design  
34 and implementation of the program. Drug classes exempted under section  
35 3(3) of this act must be integrated into disease management programs as  
36 appropriate. Providers may not be required to participate in a disease

1 management program as a condition of contracting to provide state  
2 purchased health care services.

3 (3) The programs must incorporate an evaluation component that  
4 allows the administrator to identify successful programs that are  
5 candidates for statewide expansion. The evaluation should consider the  
6 impact of the disease management program upon the health status of  
7 participating enrollees, the use of health services by these enrollees,  
8 the impact on the state's overall health care expenditures, the  
9 coverage of comorbidities associated with the selected disease group,  
10 and the overall costs of treating these enrollees.

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

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

21 The administrator may solicit and accept grants or other funds from  
22 public and private sources to support consumer and provider education,  
23 disease management programs, and other related activities under this  
24 act. Any grants or funds received may be used to enhance these  
25 activities as long as program standards established by the  
26 administrator are maintained.

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

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

1        **NEW SECTION.** **Sec. 15.** A new section is added to chapter 41.05 RCW  
2 to read as follows:

3            (1) By January 1, 2003, the administrator must submit to the  
4 governor and the health care and fiscal committees of the legislature  
5 a progress report regarding the implementation of the prescription drug  
6 education and utilization system. The report must include a  
7 description of the extent to which the evidence-based review has been  
8 incorporated into the preferred drug list, and any prior authorization  
9 policies or procedures that have been developed.

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

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

33        **NEW SECTION.** **Sec. 16.** A new section is added to chapter 41.05 RCW  
34 to read as follows:

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

38          (1) The evaluation shall assess:

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

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

6       (c) The extent to which the program has lessened administrative  
7 burdens on health care providers participating in state purchased  
8 health care programs;

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

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

14       (2) The administrator may include the evaluation of disease  
15 management programs required under section 12 of this act in the  
16 evaluation under this section.

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

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

25       NEW SECTION. **Sec. 17.** A new section is added to chapter 69.41 RCW  
26 to read as follows:

27       Any pharmacist filling a prescription under the preferred drug list  
28 program established under section 3 of this act or under section 10 of  
29 this act from a prescriber who has endorsed the preferred drug list  
30 must substitute the preferred drug for any nonpreferred drug in a given  
31 therapeutic category, unless the prescriber has indicated on the  
32 prescription that the nonpreferred drug must be dispensed as written,  
33 in which case the pharmacist must dispense the nonpreferred drug as  
34 written. When a substitution is made, or a preferred drug within a  
35 therapeutic class changes, the prescriber will be notified in writing  
36 by the dispensing pharmacist of the specific drug and dose dispensed.

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

3        Nothing in this act preempts state-owned or managed hospitals  
4 licensed under chapter 70.41 RCW from aggregate purchasing through  
5 other programs. These hospitals may choose to participate in the  
6 preferred drug program under section 3 of this act if drugs can be  
7 obtained at lower cost.

8        **NEW SECTION.** **Sec. 19.** A new section is added to chapter 43.60A  
9 RCW to read as follows:

10       Nothing in this act preempts state-owned facilities and programs  
11 operated by the department of veterans affairs from aggregate  
12 purchasing through other programs. The department may choose to  
13 participate in the preferred drug program under section 3 of this act  
14 if drugs can be obtained at lower cost.

15       **NEW SECTION.** **Sec. 20.** If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 remainder of the act or the application of the provision to other  
18 persons or circumstances is not affected.

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

28       **NEW SECTION.** **Sec. 22.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and takes effect  
31 immediately.

32       **NEW SECTION.** **Sec. 23.** If specific funding for the purposes of  
33 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2002, in the omnibus appropriations act, this act  
2 is null and void."

3 **2SHB 2431** - H AMD  
4 By Representative Cody

5

6 On page 1, line 2 of the title, after "system;" strike the  
7 remainder of the title and insert "amending RCW 41.05.011, 42.30.110,  
8 and 41.05.026; reenacting and amending RCW 42.17.310; adding new  
9 sections to chapter 41.05 RCW; adding a new section to chapter 69.41  
10 RCW; adding a new section to chapter 43.60A RCW; creating new sections;  
11 prescribing penalties; and declaring an emergency."

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