
HOUSE BILL 2431

State of Washington

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By Representatives Cody, Campbell, Sommers, Schual-Berke, Fromhold, Hunt, Doumit, McIntire, Lysen, Hatfield, Conway, Veloria, Chase, Ogden, Upthegrove, Romero, Santos, Kagi, Haigh, Wood, Kenney and Simpson

Read first time 01/16/2002. Referred to Committee on Health Care.

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; adding new sections to chapter 41.05 RCW; adding a new
4 section to chapter 74.09 RCW; adding a new section to chapter 43.70
5 RCW; adding a new section to chapter 72.09 RCW; adding a new section to
6 chapter 43.60A RCW; creating a new section; prescribing penalties;
7 providing an effective date; and declaring an emergency.

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

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

18 (2) It is the intent of the legislature to develop a comprehensive
19 prescription drug education and utilization system in Washington state

1 that will improve prescription drug prescribing practices, increase
2 consumer understanding of and compliance with appropriate use of
3 prescription drugs, and improve prescription drug purchasing through a
4 sound evidence-based process that evaluates the therapeutic value and
5 cost-effectiveness of prescription drugs.

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

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

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

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

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

24 (4) "Department" means the department of social and health
25 services.

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

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

31 (7) "Limited casualty program" means the medical care program
32 provided to medically needy persons as defined under Title XIX of the
33 federal social security act, and to medically indigent persons who are
34 without income or resources sufficient to secure necessary medical
35 services.

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

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

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

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

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

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

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

17 (15) "Therapeutic class" means a group of drugs used for the
18 treatment, remediation, or cure of a specific order or disease.

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

21 (~~Unless the context clearly requires otherwise,~~) The definitions
22 in this section (~~shall~~) apply throughout this chapter unless the
23 context clearly requires otherwise.

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

25 (2) "State purchased health care" or "health care" means medical
26 and health care, pharmaceuticals, and medical equipment purchased with
27 state and federal funds by the department of social and health
28 services, the department of health, the basic health plan, the state
29 health care authority, the department of labor and industries, the
30 department of corrections, the department of veterans affairs, and
31 local school districts.

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

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

36 (5) "Flexible benefit plan" means a benefit plan that allows
37 employees to choose the level of health care coverage provided and the

1 amount of employee contributions from among a range of choices offered
2 by the authority.

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

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

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

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

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

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

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

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

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

10 (12) "Plan year" means the time period established by the
11 authority.

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

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

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

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

17 and who are at least age fifty-five and have at least ten years of
18 service under the teachers' retirement system plan 3 as defined in RCW
19 41.32.010(40), the Washington school employees' retirement system plan
20 3 as defined in RCW 41.35.010, or the public employees' retirement
21 system plan 3 as defined in RCW 41.40.010.

22 (14) "Emergency service personnel killed in the line of duty" means
23 law enforcement officers and fire fighters as defined in RCW 41.26.030,
24 and reserve officers and fire fighters as defined in RCW 41.24.010 who
25 die as a result of injuries sustained in the course of employment as
26 determined consistent with Title 51 RCW by the department of labor and
27 industries.

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

31 (16) "Prior authorization" means a process requiring the prescriber
32 or the dispenser to verify with the authority or its contractor that
33 the proposed medical use of a particular medicine for a patient meets
34 predetermined criteria for payment by the program.

35 (17) "Therapeutic class" means a group of drugs used for the
36 treatment, remediation, or cure of a specific order or disease.

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

1 The administrator, in concert with other state agencies involved in
2 state purchased health care, must begin implementation of a preferred
3 drug program by January 1, 2003. In so doing, the administrator may
4 adopt rules, and must:

5 (1) Identify for initial consideration those classes of drugs for
6 which agencies have substantial annual aggregate expenditures.

7 (2) Exempt the following drug classes from inclusion on any
8 preferred drug list:

9 (a) Antipsychotics;

10 (b) Chemotherapy;

11 (c) Contraceptives;

12 (d) Antiretroviral drugs;

13 (e) Immunosuppressants; and

14 (f) Hypoglycemia rescue agents;

15 (3) Contract with one or more qualified entities to determine which
16 drugs within each of the identified therapeutic classes are essentially
17 equal in terms of safety and efficacy. Upon request of the authority,
18 manufacturers must submit dossier reports containing clinical and
19 economic data utilizing the American managed care pharmacy format for
20 preferred drug list submissions. The authority must provide the
21 dossier to the contracted entity, who will base its determinations on
22 the strength of scientific evidence and standards of practice that
23 include, but are not limited to:

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

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

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

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

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

37 (4) Submit the determinations made under subsection (3) of this
38 section to the pharmacy and therapeutics committee established in
39 section 12 of this act, which must incorporate them into

1 recommendations to the administrator as provided in section 12 of this
2 act;

3 (5) Develop a preferred drug list based on the recommendations of
4 the pharmacy and therapeutics committee. For each therapeutic class
5 considered, the list must identify the drugs determined to be
6 essentially equal and, from among those, which one is the preferred
7 drug. The administrator may revise the preferred drug list annually,
8 as necessary to meet the objectives of this act, pursuant to the same
9 process used in the development of the initial list. Each state agency
10 that purchases or provides health care services must adopt the
11 preferred drug list consistent with the scope of benefits offered
12 through programs administered by that agency;

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

18 (7) Ensure that a provider who does not endorse the list must do so
19 in writing to the administrator and is subject to prior authorization
20 as provided in sections 5 through 9 of this act;

21 (8) Require any pharmacist filling a prescription for a client of
22 state-purchased health care from a provider who has endorsed the
23 preferred drug list to substitute the preferred drug for any
24 nonpreferred drug in a given therapeutic category, unless the
25 prescriber has indicated on the prescription that the drug must be
26 dispensed as written, in which case the pharmacists must dispense the
27 drug as written.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 Any prior approval process adopted pursuant to sections 5 through
18 9 of this act must include clear standards and procedures for a process
19 to ensure consumer access to medically necessary nonpreferred drugs.
20 No preferred drug list can account for every therapeutic eventuality or
21 unique patient need. Prior approval procedures for nonpreferred drugs
22 must neither pose a substantial barrier to the prescribing health care
23 professional nor hinder the consumer's ability to receive necessary
24 medication.

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

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

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

34 (2) By July 1, 2004, use mechanized drug claims processing and
35 information retrieval systems to analyze medical claims to identify
36 those providers who request that prescriptions for nonpreferred drugs

1 be dispensed as written on a more frequent basis than their peers, and
2 provide information and education to those providers as needed; and

3 (3) Conduct a feasibility study of developing a system to
4 periodically provide a complete drug profile of persons covered through
5 state-purchased health care systems to each person's primary care
6 provider. Such a system must fully comply with state and federal laws
7 related to the privacy of health care information.

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

10 (1) A pharmacy and therapeutics committee is established to assist
11 the administrator, and other agencies involved in state-purchased
12 health care, in the development and implementation of a preferred drug
13 program.

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

16 (a) Four physicians licensed in this state and actively engaged in
17 the practice of medicine, at least one of whom is employed by a carrier
18 as defined in RCW 48.43.005, chosen from a list of nominees provided by
19 the Washington state medical association;

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

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

26 (d) One person with background experience, education, or expertise
27 in pharmacoconomics.

28 (3) Committee members serve staggered three-year terms. Of the
29 initial members, one physician, the advanced registered nurse
30 practitioner, and one pharmacist must each be appointed for two-year
31 terms, and one physician and one pharmacist must each be appointed for
32 one-year terms. The remaining committee members must be appointed for
33 three-year terms. Members may be reappointed for a period not to
34 exceed three three-year terms. Vacancies on the committee must be
35 filled for the balance of the unexpired term from nominee lists for the
36 appropriate committee category as provided under subsection (2) of this
37 section.

1 (4) Committee members must select a chair and a vice-chair on an
2 annual basis from the committee membership.

3 (5) The administrator must enter into a confidentiality agreement
4 with any private contractor or state employee who has access to
5 proprietary or confidential nonpublished data that is in the custody of
6 any drug utilization review committee established under this section.
7 The failure of any contractor to adhere to the terms of the
8 confidentiality agreement is grounds for termination of the contract by
9 the administrator. Unauthorized disclosure of proprietary or
10 confidential nonpublished data by any contractor or their employee, or
11 by any employee of a state agency, is punishable as a class C felony.

12 (6) The department shall provide staff support to the committee.
13 Committee members serve without compensation but shall be reimbursed
14 for expenses pursuant to RCW 43.03.050 and 43.03.060.

15 (7) The members of the committee are immune from civil liability
16 for any official acts performed in good faith as members of the
17 committee.

18 (8) The committee must:

19 (a) Recommend to the administrator, and other agencies involved in
20 state-purchased health care, which drugs should be identified as
21 preferred drugs from among those determined, pursuant to section 4(3)
22 of this act, to be essentially equal in terms of safety and efficacy.
23 In making these recommendations, the committee must consider, among
24 other factors, the relative cost of the drugs being considered, the
25 impact of each drug on the state's overall health care expenditures,
26 and the efforts of each drug's manufacturer to ensure that all
27 Washington residents have access to medically necessary medicines at an
28 affordable price. The committee shall annually review the preferred
29 drug list and recommend to the administrator any changes it deems
30 appropriate to meet the objectives of this act;

31 (b) Make recommendations regarding the rules to be adopted by the
32 administrator and other state agencies involved in state-purchased
33 health care to implement the preferred drug program; and

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

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

1 The administrator must design, in concert with state agencies
2 involved in state-purchased health care, a uniform drug utilization
3 review program for state-purchased health care. Each state agency that
4 purchases or provides health care services must adopt the uniform drug
5 utilization review program and may implement it directly or by contract
6 or interagency agreement. The program must include but is not limited
7 to prescription drug review, management, and education, including
8 prospective, concurrent, and retrospective review, to improve the
9 quality of pharmaceutical care by ensuring that prescription drugs
10 provided through state-purchased health care programs advance quality
11 clinical outcomes and are appropriate, medically necessary, and not
12 likely to produce adverse medical results.

13 (1) The administrator may establish a drug utilization review
14 committee either directly or through a contract with a private
15 organization to assist in development and implementation of the drug
16 utilization review program. If the administrator chooses to form a
17 drug utilization review committee, the administrator must appoint the
18 members of the committee. The committee must be composed primarily of
19 actively practicing health care professionals. Additional specialty
20 expertise must be obtained as needed. Employees of agencies that
21 purchase health services cannot be a member of the drug utilization
22 review committee but will provide staff support to the committee.

23 (2) Nothing in chapter 42.30 RCW prevents the drug utilization
24 review committee from holding an executive session during a regular or
25 special meeting of the committee to review and discuss proprietary or
26 confidential nonpublished data that relates to development or
27 implementation of the drug utilization review program.

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

1 **Sec. 14.** RCW 42.30.110 and 2001 c 216 s 1 are each amended to read
2 as follows:

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

6 (a) To consider matters affecting national security;

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

10 (c) To consider the minimum price at which real estate will be
11 offered for sale or lease when public knowledge regarding such
12 consideration would cause a likelihood of decreased price. However,
13 final action selling or leasing public property shall be taken in a
14 meeting open to the public;

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

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

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

25 (g) To evaluate the qualifications of an applicant for public
26 employment or to review the performance of a public employee. However,
27 subject to RCW 42.30.140(4), discussion by a governing body of
28 salaries, wages, and other conditions of employment to be generally
29 applied within the agency shall occur in a meeting open to the public,
30 and when a governing body elects to take final action hiring, setting
31 the salary of an individual employee or class of employees, or
32 discharging or disciplining an employee, that action shall be taken in
33 a meeting open to the public;

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

38 (i) To discuss with legal counsel representing the agency matters
39 relating to agency enforcement actions, or to discuss with legal

1 counsel representing the agency litigation or potential litigation to
2 which the agency, the governing body, or a member acting in an official
3 capacity is, or is likely to become, a party, when public knowledge
4 regarding the discussion is likely to result in an adverse legal or
5 financial consequence to the agency.

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

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

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

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

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

27 (k) To consider, in the case of the state investment board,
28 financial and commercial information when the information relates to
29 the investment of public trust or retirement funds and when public
30 knowledge regarding the discussion would result in loss to such funds
31 or in private loss to the providers of this information;

32 (l) To consider, in the case of the pharmacy and therapeutics
33 committee established in section 12 of this act, proprietary or
34 confidential nonpublished information that relates to the development
35 or revision of the preferred drug list or the designation of a drug for
36 prior authorization.

37 (2) Before convening in executive session, the presiding officer of
38 a governing body shall publicly announce the purpose for excluding the
39 public from the meeting place, and the time when the executive session

1 will be concluded. The executive session may be extended to a stated
2 later time by announcement of the presiding officer.

3 **Sec. 15.** RCW 41.05.026 and 1991 c 79 s 1 are each amended to read
4 as follows:

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

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

18 (3) Notwithstanding any provision of chapter 42.17 RCW to the
19 contrary, proprietary information submitted upon request of the
20 administrator by any vendor or pharmaceutical manufacturer for the
21 purpose of analyzing and developing prescription drug education and
22 utilization systems, a preferred drug list, a drug utilization review
23 program, and consolidated prescription drug purchasing for state-
24 purchased health care programs may be withheld at any time from public
25 inspection when necessary to preserve trade secrets or prevent unfair
26 competition.

27 (4) The board, the pharmacy and therapeutics committee established
28 in section 12 of this act, or the drug utilization review committee
29 established in section 13 of this act may hold an executive session in
30 accordance with chapter 42.30 RCW during any regular or special meeting
31 to discuss information submitted in accordance with subsection (1)
32 ((or)), (2), or (3) of this section.

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

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

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

5 (2) Within one year following initial adoption of the preferred
6 drug list for state-purchased health care, units of local government,
7 private entities, and individuals who lack or are underinsured for
8 prescription drug coverage must be provided an opportunity to
9 participate in the purchasing cooperative resulting from adoption of
10 the preferred drug list.

11 (3) For purposes of this section, "participation" for individuals
12 who lack or are underinsured for prescription drug coverage means that,
13 following payment of a reasonable annual enrollment fee, these
14 individuals can benefit from any price discounts obtained from
15 prescription drug manufacturers through adoption of the preferred drug
16 list. The administrator must develop a payment mechanism to ensure
17 that pharmacies filling prescriptions for individuals participating in
18 the purchasing cooperative are reimbursed for discounts given to these
19 individuals from rebates or other payments received by the state from
20 manufacturers.

21 NEW SECTION. **Sec. 17.** 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, obesity, hemophilia, renal
36 disease, transplants, intervertebral disc disorders, and populations at
37 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. Providers may not be required to
4 participate in a disease management program as a condition of
5 contracting to provide state-purchased health care services.

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

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

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

23 Any savings to health care benefit programs administered by the
24 public employees' benefits board that result from implementation of the
25 prescription drug education and utilization system under this act must
26 be deposited into the public employees' and retirees' insurance account
27 established under RCW 41.05.120.

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

30 (1) By January 1, 2003, the administrator must submit to the
31 governor and the health care and fiscal committees of the legislature
32 a progress report regarding the implementation of the prescription drug
33 education and utilization system.

34 (2) Beginning January 1, 2003, and by January 1st of each year
35 through 2005, the administrator must submit to the governor and the
36 health care and fiscal committees of the legislature a report on the
37 impacts of the prescription drug education and utilization system. The

1 report must address whether the activities under this act have
2 succeeded in promoting improved clinical outcomes and cost-effective
3 drug utilization and report specifically on the status and outcomes
4 associated with the pilot disease management programs established under
5 section 17 of this act. The report may present recommendations for
6 modifications to the system, or for additional strategies that should
7 be pursued to promote therapeutic and cost-effective utilization of
8 prescription drugs by residents of the state of Washington.

9 (3) By January 1, 2003, the secretary of the department of social
10 and health services shall submit to the governor and the health care
11 and fiscal committees of the legislature a report on implementation of
12 the therapeutic consultation program. The report must include, at a
13 minimum, a description of the impact of the program on medical
14 assistance clients and providers and any cost savings associated with
15 the program, and recommendations as to whether the program should be
16 discontinued, in whole or in part, upon implementation of the preferred
17 drug list as provided in section 4 of this act.

18 NEW SECTION. **Sec. 20.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and takes effect
21 May 1, 2002.

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