S-0376.1

SENATE BILL 5203

State of Washington 67th Legislature 2021 Regular Session

By Senators Van De Wege, Carlyle, Frockt, Hasegawa, Keiser, Liias, Nguyen, Randall, Robinson, Salomon, Stanford, and Wilson, C.

Read first time 01/13/21. Referred to Committee on Health & Long Term Care.

AN ACT Relating to the production, distribution, and purchase of generic prescription drugs; amending RCW 70.14.060; and adding a new section to chapter 70.14 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 70.14 RCW to read as follows:

(1)(a) The authority may enter into partnerships with another state, a group of states, a state agency, a nonprofit organization, or any other entity to produce, distribute, or purchase generic prescription drugs.

(b) The generic prescription drugs must be produced or distributed by a drug company or generic drug manufacturer that is registered with the United States food and drug administration.

(2) The authority shall only enter into partnerships, in consultation with other state agencies as necessary, to produce, distribute, or purchase a generic prescription drug at a price that results in savings to public and private purchasers and consumers.

(3) For generic prescription drugs that the authority has entered into a partnership under this section:

(a) State purchased health care programs must purchase the generic prescription drugs through the partnership, unless the state

purchased health care program can obtain the generic prescription drug at a cost savings through another purchasing mechanism; and

(b) Local governments, private entities, health carriers, and others may choose to voluntarily purchase the generic prescription drugs from the authority as available quantities allow.

(4) All information and documents obtained or created under this section is exempt from disclosure under chapter 42.56 RCW.

(5) For purposes of this section, the following definitions apply:

(a) "Authority" means the health care authority.

(b) "Generic drug" means a drug that is approved pursuant to section 355(j) of the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.), or a biosimilar, as defined under the federal public health service act (42 U.S.C. Sec. 262).

(c) "State purchased health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, department of health, state health care authority, department of labor and industries, department of corrections, and department of veterans affairs. State purchased health care does not include prescription drugs purchased for medical assistance program clients under chapter 74.09 RCW.

Sec. 2. RCW 70.14.060 and 2020 c 346 s 4 are each amended to read as follows:

(1)(a) The ((~~administrator [director]~~)) director of the state health care authority shall, directly or by contract, adopt policies necessary for establishment of a prescription drug purchasing consortium. The consortium's purchasing activities shall be based upon the evidence-based prescription drug program established under RCW 70.14.050. ((~~State~~)) Except as provided in section 1 of this act or exempted under (b) of this subsection, state purchased health care programs as defined in RCW 41.05.011 shall purchase prescription drugs through the consortium for those prescription drugs that are purchased directly by the state and those that are purchased through reimbursement of pharmacies((~~, unless exempted under (b) of this subsection~~)). The ((~~administrator [director]~~)) director shall not require any supplemental rebate offered to the health care authority by a pharmaceutical manufacturer for prescription drugs purchased for medical assistance program clients under chapter 74.09 RCW be

extended to any other state purchased health care program, or to any other individuals or entities participating in the consortium. The ((~~administrator [director]~~)) director shall explore joint purchasing opportunities with other states.

(b) State purchased health care programs are exempt from the requirements of this section if they can demonstrate to the ((~~administrator [director]~~)) director of the state health care authority that, as a result of the availability of federal programs or other purchasing arrangements, their other purchasing mechanisms will result in greater discounts and aggregate cost savings than would be realized through participation in the consortium.

(2) Participation in the purchasing consortium shall be offered as an option beginning January 1, 2006. Participation in the consortium is purely voluntary for units of local government, private entities, labor organizations, health carriers as provided in RCW 48.43.005, state purchased health care services from or through health carriers as provided in RCW 48.43.005, and for individuals who lack or are underinsured for prescription drug coverage. The ((~~administrator [director]~~)) director may set reasonable fees, including enrollment fees, to cover administrative costs attributable to participation in the prescription drug consortium.

(3) The state health care authority is authorized to adopt rules implementing chapter 129, Laws of 2005.

NEW SECTION. **Sec. 3.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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