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ENGROSSED SUBSTITUTE SENATE BILL 6368

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State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Thibaudeau, Deccio and Winsley)

READ FIRST TIME 02/08/2002.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (a) Antipsychotics;

31 (b) Chemotherapy;

32 (c) Antiretroviral drugs;

33 (d) Immunosuppressants; and

34 (e) Hypoglycemia rescue agents;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (9) The committee must:

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

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

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

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

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

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

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

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

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

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

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

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

4 (a) To consider matters affecting national security;

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

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

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

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

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

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

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

36 (i) To discuss with legal counsel representing the agency matters  
37 relating to agency enforcement actions, or to discuss with legal  
38 counsel representing the agency litigation or potential litigation to  
39 which the agency, the governing body, or a member acting in an official

1 capacity is, or is likely to become, a party, when public knowledge  
2 regarding the discussion is likely to result in an adverse legal or  
3 financial consequence to the agency.

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

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

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

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

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

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

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

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

27 (4) The board, the pharmacy and therapeutics committee established  
28 in section 13 of this act, or the drug utilization review committee  
29 established in section 14 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 **Sec. 17.** RCW 42.17.310 and 2001 c 278 s 1, 2001 c 98 s 2, and 2001  
37 c 70 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (r) Financial and commercial information and records supplied by  
38 businesses or individuals during application for loans or program  
39 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,

1 or during application for economic development loans or program  
2 services provided by any local agency.

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

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

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

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

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

1 information be released, and except as provided for under RCW  
2 42.17.260(9).

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

5 (y) Information obtained by the board of pharmacy or the department  
6 of health and its representatives as provided in RCW 69.41.044,  
7 69.41.280, and 18.64.420.

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

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

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

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

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

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

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

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

37 (hh) Information and documents created specifically for, and  
38 collected and maintained by a quality improvement committee pursuant to  
39 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW

1 4.24.250, regardless of which agency is in possession of the  
2 information and documents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (ww) Those portions of records containing specific and unique  
37 vulnerability assessments or specific and unique response plans, either  
38 of which is intended to prevent or mitigate criminal terrorist acts as

1 defined in RCW 70.74.285, the public disclosure of which would have a  
2 substantial likelihood of threatening public safety.

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

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

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

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

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

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

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

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

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

33 (i) Government agencies concerned with the management of fish and  
34 wildlife resources;

35 (ii) The department of social and health services, child support  
36 division, and to the department of licensing in order to implement RCW  
37 77.32.014 and 46.20.291; and

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



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

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

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

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

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

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

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

35        (3) For purposes of this section, "voluntary participation" for  
36 individuals who lack prescription drug coverage means that, following  
37 payment of a reasonable annual enrollment fee, these individuals can  
38 benefit from any price discounts obtained from prescription drug

1 manufacturers through adoption of the preferred drug list. The  
2 administrator must develop mechanisms to ensure that pharmacies filling  
3 prescriptions for individuals participating voluntarily in the  
4 purchasing cooperative recover any discounts given to these individuals  
5 through their participation in the cooperative.

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

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

15 The consolidated prescription drug purchasing account is created in  
16 the custody of the state treasurer. All receipts from the fees from  
17 the preferred drug purchasing cooperative created in section 18 of this  
18 act must be deposited into the account. Expenditures from the account  
19 may be used only for the purposes of this act. Only the administrator  
20 or the administrator's designee may authorize expenditures from the  
21 account. The account is subject to allotment procedures under chapter  
22 43.88 RCW, but an appropriation is not required for expenditures.

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

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

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

1 hemophilia, renal disease, transplants, intervertebral disc disorders,  
2 and populations at highest risk of improper use of medication.

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

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

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

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

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

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

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

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

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

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

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

36 (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 20 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. 24.** 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 4 of this act or under section 18 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.

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

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

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

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

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

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

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

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