

HOUSE BILL REPORT

HB 1214

As Reported by House Committee On:
Health Care
Appropriations

Title: An act relating to prescription drugs.

Brief Description: Making prescription drugs more available.

Sponsors: Representatives Cody and Pflug; by request of Governor Locke.

Brief History:

Committee Activity:

Health Care: 1/21/03, 1/23/03 [DPS];

Appropriations: 1/27/03, 1/29/03 [DP2S(w/o sub HC)].

Brief Summary of Second Substitute Bill

- Creates a prescription drug board to design and approve policies and programs related to purchasing and utilizing prescription drugs.
- Creates a purchasing consortium for prescription drugs including public and private entities and individuals.
- Directs the Department of Social and Health Services to seek a federal waiver to provide a medicaid prescription drug benefit for senior citizens.
- Creates a prescription drug clearinghouse to assist seniors in obtaining prescription drugs through public and private programs.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Cody, Chair; Morrell, Vice Chair; Pflug, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Campbell, Clibborn, Darneille, Moeller and Schual-Berke.

Minority Report: Do not pass. Signed by 3 members: Representatives Alexander, Benson and Skinner.

Staff: Dave Knutson (786-7146).

Background:

Expenditures for prescription drugs have been one of the fastest growing components of health care spending in the last decade, increasing more than 12 percent a year in seven of the last 13 years. New, more expensive drugs, greater patient utilization, and price increases have all contributed to rapidly increasing prescription drug prices. Although they remain a relatively small proportion of total personal health care expenditures, the annual percent increases in spending for prescription drugs have been more than double those for other health care services since 1995.

State purchased health care programs have been heavily impacted by rapidly escalating prescription drug prices, prompting most states to adopt various strategies to control such expenditures. Many states are pursuing consolidated drug purchasing strategies designed to seek greater price discounts from pharmaceutical manufacturers.

Individuals who do not have prescription drug insurance coverage are forced to pay retail prices for prescription drugs, or seek lower cost drugs in Canada. Currently, the State of Washington does not assist senior citizens or individuals who are uninsured or under insured in paying for prescription drugs.

The Medicare program does not currently provide a prescription drug benefit for senior citizens. If a senior can afford to purchase a Medicare supplement policy, they can cover themselves for the cost of prescription drugs. Until the federal government acts to include prescription drug coverage for all seniors, a portion of the senior population will continue to lack coverage. Seniors are currently employing several strategies to obtain prescription drugs, including purchasing drugs out of the country, participating in pharmaceutical manufacturers free or reduced cost programs, and looking to state governments for assistance.

Governor Locke has directed the Health Care Authority, the Department of Social and Health Services, and the Department of Labor and Industries to establish a statewide Pharmacy and Therapeutics Committee, a preferred drug list, and a consolidated prescription drug purchasing program across state agencies that purchase prescription drugs.

Summary of Substitute Bill:

The Prescription Drug Quality Improvement and Purchasing Board (Board) is created within the Health Care Authority. The Board will design and approve policies and programs related to the development of a preferred drug list and the purchase and utilization of prescription drugs for public and private participants in the prescription drug purchasing consortium.

State agencies that administer health care programs purchasing prescription drugs directly or through reimbursement of retail pharmacies, will honor a prescriber's direction to dispense a prescription drug as written on the prescription order. Pharmacists who fill prescriptions under the preferred drug list established by the Board will substitute the preferred drug for any nonpreferred drug, unless the prescriber has indicated that the prescription should be dispensed as written or the prescription is a refill of an antipsychotic, chemotherapy, antiretroviral, or immunosuppressive drug.

State agencies and programs that are able to purchase prescription drugs at a lower cost than may be obtained through the purchasing consortium are not required to participate. The Department of Social and Health Services is directed to obtain the necessary federal waivers to design a Medicaid senior prescription drug program for individuals eligible for Medicare and persons over age 65 who meet certain financial eligibility standards and do not have insurance coverage that includes prescription drug coverage. The department is prohibited from financing this program with the proceeds of a separate waiver that allows charging medicaid clients premiums.

The Health Care Authority administrator will establish a senior prescription drug information clearinghouse to help people over age 65 to purchase prescription drugs through available public and private programs. The administrator will also establish a public/private purchasing consortium to secure prescription drugs at competitive prices for consortium members. Private members of the consortium may be charged reasonable fees to cover the administrative costs of their participation.

Substitute Bill Compared to Original Bill:

A prescription drug board is established to design and approve policies related to the development of a preferred drug list. It will also oversee the purchase and utilization of prescription drugs by a public and private consortium. The Drug Utilization and Education Council will terminate 120 days after the Pharmacy and Therapeutics Committee begins operation. Endorsing prescribers will be able to have their prescriptions dispensed as written if they indicate on the prescription that the preferred drug should not be used. The use of the four brand limit under the Therapeutic Consultation Service will end on July 1, 2004. Prescriber education activities should be adequately funded to ensure appropriate information about the preferred drug list and the ability to dispense as written is communicated to prescribers. A third party evaluation of prescription drug purchasing activities is required. The therapeutic consultation service four brand limit is terminated on July 1, 2005, and may be ended earlier if certain conditions are met.

Appropriation: None.

Fiscal Note: Requested on substitute on January 23, 2003.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: A preferred drug list will provide consumers and purchasers of health care with cost-effective prescription drugs and hold down the costs. Seniors and others without prescription drug coverage need help from the state to purchase prescription drugs. People shouldn't have to choose between drugs and food. Doctors and pharmacists need relief from onerous bureaucratic oversight. The purchasing power of the state should be extended to individuals and private entities to help them purchase affordable prescription drugs.

Testimony Against: A preferred drug list is bad medicine and bad policy. It will result in the cheapest drug being dispensed for low-income citizens. A public and private purchasing consortium is untried, untested, and will not work.

Testified: (In support) Ree Sailors, Office of the Governor; Dave Spicer; Dr. Maureen Callaghan, Washington State Medical Association; Dr. Art Zoloth, Washington State Pharmacy Association; Lauren Moughon and Anna Clayton, American Association of Retired Persons-Washington; Barbara Flye and Kathleen Unmuth, Washington Citizen Action; Scott Ingham, Business for Affordable Medicine; Bill Daly, Office of the Insurance Commissioner; Linda Lanham, International Aerospace Machinists; Chris Barton, Service Employees International Union; and Robby Stern, Washington State Labor Council.

(With concerns) Linda Hull, Washington State Biotechnology and Biomedical Association; Stu Halson, Rite Aid; Tom Burns, Glaxo Smith Kline; Amber Balch, Association of Washington Business; and Paul Guppy, Washington Policy Center.

(Opposed) Cliff Webster, Pharmaceutical Research and Manufacturers of America.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care. Signed by 15 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McIntire, Miloscia, Ruderman and Schual-Berke.

Minority Report: Do not pass. Signed by 10 members: Representatives Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Boldt, Buck, Clements, Cox, DeBolt, McDonald and Pflug.

Staff: Dave Knutson (786-7146).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care:

Immunity from civil liability for good faith acts is provided for prescription drug board members and pharmacy and therapeutics committee members.

The Health Care Authority administrator will inform the pharmacy and therapeutics committee if substantial numbers of prescribers are prescribing nonpreferred drugs so that the committee can review its decisions.

Pharmacists are prohibited from substituting a preferred drug for a nonpreferred drug on any prescription for a refill of an antipsychotic, chemotherapy, antiretroviral, or immunosuppressive drug.

The Department of Social and Health Services (Department) is directed to seek a federal waiver to operate a Medicaid Prescription Drug Assistance Program for senior citizens and other persons eligible for Medicare. The statutory establishment of the program is deleted. The Department is prohibited from financing the program through another waiver that authorizes the collection of premiums from medicaid recipients. The Department will provide the Legislature with financing options to pay for the assistance program.

Except for rebates, the solicitation or use of funds from the pharmaceutical industry in supporting activities under this act is prohibited. Certain managed care organizations or group model health maintenance organizations are exempted from the provisions of this act.

The Therapeutic Consultation Service four-brand limit program component is eliminated on July 1, 2005. The four-brand limit program component may be eliminated prior to this date if the Department determines the number of claims that are triggering the four-brand edit exception are below a threshold that will be defined in the biennial operating budget.

A null and void clause is added that applies to the entire bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill contains an emergency clause and takes effect immediately. However, the bill is null and void if not funded in the budget.

Testimony For: This legislation is needed to provide more affordable prescription drugs for senior citizens and others. It will also help doctors and pharmacists by reducing

administrative burdens placed on them by state programs that purchase prescription drugs for public employees and low income individuals.

Testimony Against: Pharmaceutical manufacturers currently provide free or reduced price prescription drugs to over 50,000 citizens in Washington. A public/private purchasing consortium has never been tried in any state in the Union. The process of developing a preferred drug list and attempting to negotiate lower drug prices is an indirect form of price controls.

Testified: (Supports) Lauren Moughon, American Association of Retired Persons of Washington; Eleanor Owen, League of Women Voters; Ree Sailors, Office of Financial Management; Dr. Art Zoloth, Washington State Pharmacy Association; and Carl Nelson, Washington State Medical Association.

(Opposed) Cliff Webster, Pharmaceutical Research & Manufacturers of America.