
HOUSE BILL 2068

State of Washington

58th Legislature

2003 Regular Session

By Representatives Bailey, Pflug, Ahern, Skinner, Schindler, Orcutt, McMahan, Delvin, Sehlin, Pearson, Shabro, Newhouse, Alexander, Priest, Tom, Ericksen, Benson, Jarrett, Kristiansen, Condotta, Mielke, Boldt, McDonald and Woods

Read first time 02/21/2003. Referred to Committee on Health Care.

1 AN ACT Relating to prescription drugs; amending RCW 41.05.011 and
2 43.72.900; adding new sections to chapter 41.05 RCW; adding a new
3 section to chapter 74.09 RCW; adding a new section to chapter 43.79
4 RCW; adding a new section to chapter 69.41 RCW; creating new sections;
5 and declaring an emergency.

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

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

16 (2) It is the intent of the legislature to:

17 (a) Develop a comprehensive prescription drug education and
18 utilization system in Washington state that will ensure best
19 prescribing practices and pharmaceutical use, reduce administrative

1 burdens on providers, increase consumer understanding of and compliance
2 with appropriate use of prescription drugs, help to control increases
3 in consumer and state health care spending, and improve prescription
4 drug purchasing through a sound evidence-based process that evaluates
5 the therapeutic value and cost-effectiveness of prescription drugs; and

6 (b) Develop a program to promote access to affordable prescription
7 drug coverage to low-income aged or disabled persons who do not
8 otherwise have adequate coverage to purchase necessary and appropriate
9 prescription drugs.

10 **Sec. 2.** RCW 41.05.011 and 2001 c 165 s 2 are each amended to read
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section shall apply throughout this chapter.

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

15 (2) "State purchased health care" or "health care" means medical
16 and health care, pharmaceuticals, and medical equipment purchased with
17 state and federal funds by the department of social and health
18 services, the department of health, the basic health plan, the state
19 health care authority, the department of labor and industries, the
20 department of corrections, the department of veterans affairs, and
21 local school districts.

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

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

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

30 (6) "Employee" includes all full-time and career seasonal employees
31 of the state, whether or not covered by civil service; elected and
32 appointed officials of the executive branch of government, including
33 full-time members of boards, commissions, or committees; and includes
34 any or all part-time and temporary employees under the terms and
35 conditions established under this chapter by the authority; justices of
36 the supreme court and judges of the court of appeals and the superior
37 courts; and members of the state legislature or of the legislative

1 authority of any county, city, or town who are elected to office after
2 February 20, 1970. "Employee" also includes: (a) Employees of a
3 county, municipality, or other political subdivision of the state if
4 the legislative authority of the county, municipality, or other
5 political subdivision of the state seeks and receives the approval of
6 the authority to provide any of its insurance programs by contract with
7 the authority, as provided in RCW 41.04.205; (b) employees of employee
8 organizations representing state civil service employees, at the option
9 of each such employee organization, and, effective October 1, 1995,
10 employees of employee organizations currently pooled with employees of
11 school districts for the purpose of purchasing insurance benefits, at
12 the option of each such employee organization; and (c) employees of a
13 school district if the authority agrees to provide any of the school
14 districts' insurance programs by contract with the authority as
15 provided in RCW 28A.400.350.

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

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

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

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

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

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

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

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

1 (12) "Plan year" means the time period established by the
2 authority.

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

- 5 (a) RCW 41.32.010(11) on or after July 1, 1996; or
- 6 (b) RCW 41.35.010 on or after September 1, 2000; or
- 7 (c) RCW 41.40.010 on or after March 1, 2002;

8 and who are at least age fifty-five and have at least ten years of
9 service under the teachers' retirement system plan 3 as defined in RCW
10 41.32.010(40), the Washington school employees' retirement system plan
11 3 as defined in RCW 41.35.010, or the public employees' retirement
12 system plan 3 as defined in RCW 41.40.010.

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

19 (15) "Prescription drug board" means the prescription drug advisory
20 board created in section 3 of this act.

21 NEW SECTION. Sec. 3. A new section is added to chapter 41.05 RCW
22 to read as follows:

23 (1) The prescription drug advisory board is created within the
24 authority. The function of the prescription drug board is to provide
25 advice and guidance on prescription drug policies and programs
26 established under section 4 of this act.

27 (2) The prescription drug board shall be composed of eleven members
28 selected as provided in this subsection.

29 (a) The governor shall select one member of the prescription drug
30 board from lists of three nominees submitted by statewide organizations
31 representing each of the following:

- 32 (i) One representative of state employees, who represents an
33 employee union certified as exclusive representative of at least one
34 bargaining unit of classified employees;
- 35 (ii) One member who is a licensed physician;
- 36 (iii) One member who is a licensed pharmacist;

1 (iv) One member representing a health carrier licensed under Title
2 48 RCW;

3 (v) One member representing a private union;

4 (vi) One member representing the biotechnology industry; and

5 (vii) One member representing nonprofit hospitals;

6 (b) The governor shall select two members of the prescription drug
7 board from a list of nominees submitted by statewide organizations
8 representing consumers, one of whom shall represent individuals under
9 age sixty-five without insurance coverage for prescription drugs and
10 one of whom shall represent individuals over age sixty-five without
11 insurance coverage for prescription drugs; and

12 (c) The governor shall select two members of the prescription drug
13 board from a list of nominees submitted by statewide organizations
14 representing business, one of whom shall represent small businesses who
15 employ fifty or fewer employees and one of whom shall represent large
16 businesses.

17 (3) The governor shall appoint the initial members of the
18 prescription drug board to staggered terms not to exceed four years.
19 Members appointed thereafter shall serve two-year terms. Members of
20 the prescription drug board shall be reimbursed for their travel
21 expenses while on official business in accordance with RCW 43.03.050
22 and 43.03.060. The members of the board shall elect a member to serve
23 as chair of the prescription drug board. Meetings of the prescription
24 drug board shall be at the call of the chair.

25 (4) Members of the prescription drug board are immune from civil
26 liability for any official acts performed in good faith as members of
27 the board.

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

30 The health care authority shall, directly or by contract:

31 (1) Adopt a preferred drug list for use as provided in this act
32 through the establishment of a pharmacy and therapeutics committee.
33 The preferred drug list shall exclude drugs used to treat mental
34 illness, cancer, the acquired human immunodeficiency virus, and
35 diabetes.

36 (a) The pharmacy and therapeutics committee shall be comprised of
37 practicing licensed physicians, other practicing licensed health

1 professionals with prescriptive authority, practicing licensed
2 pharmacists, and pharmacoeconomists. At least one licensed health
3 professional with prescriptive authority and one pharmacist must have
4 demonstrated experience in serving women, children, and people of
5 color. The membership composition must be consistent with applicable
6 federal requirements under Title XIX of the federal social security act
7 to allow full participation by the department of social and health
8 services or other state agencies in activities under this act.

9 (b) The pharmacy and therapeutics committee shall review nationally
10 recognized therapeutic drug classes. The committee must use an
11 evidence-based process that evaluates the efficacy of prescription
12 drugs, considering safety, efficacy, likelihood of compliance,
13 outcomes, and any unique impacts on specific populations based upon
14 factors such as sex, age, ethnicity, race, or disability. For each
15 therapeutic class reviewed, the committee must identify the
16 prescription drugs determined to be most clinically effective, and if
17 applicable, equally effective. If there is insufficient evidence or no
18 evidence to establish whether a drug is equally effective, cost shall
19 not be the determining factor in identifying a drug for the preferred
20 drug list. Decisions of the pharmacy and therapeutics committee
21 regarding the clinical effectiveness of drugs within a therapeutic
22 class are binding on the authority.

23 If a substantial number of prescribers in a peer group are
24 frequently prescribing nonpreferred drugs in one or more therapeutic
25 classes, the administrator must provide the pharmacy and therapeutics
26 committee with information on these prescribing patterns to enable the
27 committee to review their decisions related to the affected therapeutic
28 classes.

29 (c) State purchased health care programs shall adopt the preferred
30 drug list established by the authority for those components of their
31 programs that purchase prescription drugs directly or through
32 reimbursement of retail pharmacies consistent with the scope of
33 benefits offered through those programs. In administering prescription
34 drug benefits under state purchased health care programs, agencies
35 shall honor an endorsing prescriber's direction to dispense a
36 prescription drug as written on the prescription order or to continue
37 therapy with the drug classes included in section 13 of this act.

1 (d) Within one hundred twenty days following establishment of the
2 pharmacy and therapeutics committee, the drug utilization and education
3 council within the department of social and health services shall be
4 disbanded and its functions transferred to the pharmacy and
5 therapeutics committee.

6 (e) If a particular class of drugs is being used in a disease
7 management program sponsored by a state purchased health care program,
8 efforts shall be made to ensure that the preferred drugs in that class
9 are consistent with protocols or algorithms used in the disease
10 management program.

11 (f) Members of the pharmacy and therapeutics committee are immune
12 from civil liability for any official acts performed in good faith as
13 members of the committee;

14 (2) Establish drug utilization management policies. State
15 purchased health care programs shall adopt these drug utilization
16 management policies consistent with the scope of benefits offered and
17 populations served through programs administered by that program and
18 may implement the policies directly or by contract or interagency
19 agreement. To ensure full participation by the department of social
20 and health services in drug utilization management activities under
21 this act, the policies must be consistent with drug utilization review
22 requirements of Title XIX of the federal social security act. The
23 pharmacy and therapeutics committee shall conduct drug utilization
24 management activities for state purchased health care programs as
25 directed by the authority;

26 (3) Develop prescriber and consumer education policies. State
27 purchased health care programs shall adopt these prescriber and
28 consumer policies and implement them directly or by contract or
29 interagency agreement. Effective prescriber education policies are
30 intended to result in better compliance of prescribers with the
31 preferred drug list and increased cost savings. Prescriber education
32 policies should be adequately funded and designed to educate
33 prescribers to prevent use of more expensive prescription drugs of no
34 greater clinical benefit, to increase prescribers' awareness of the
35 preferred drug list and the credible evidence-based process used to
36 develop it, and the ability to direct that prescriptions be dispensed
37 as written;

1 (4) Adopt policies necessary for establishment of cross-agency
2 prescription drug purchasing activities. The administrator shall
3 implement the prescription drug purchasing policies, and shall
4 coordinate state purchased health care programs' participation. State
5 purchased health care programs shall coordinate the purchase of
6 prescription drugs for those prescription drugs that are purchased
7 directly by the state and those that are purchased through
8 reimbursement of retail pharmacies, unless exempted under section 14 of
9 this act. The administrator shall explore joint purchasing
10 opportunities with other states to achieve quality cost- effective
11 prescription drug coverage for participating state agencies;

12 (5) Develop an operating plan for a public/private prescription
13 drug purchasing consortium and present the plan to appropriate
14 committees of the senate and house of representatives by January 1,
15 2005. The operating plan will go into effect on July 1, 2005, unless
16 the legislature takes official action to modify or prohibit the
17 operating plan. The authority shall provide reports to the legislature
18 on January 1, 2006, and January 1, 2007, on the costs and benefits of
19 the purchasing consortium to participating individuals and private
20 entities.

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

23 Members of the prescription drug board, the pharmacy and
24 therapeutics committee, or any committee that may be established to
25 carry out activities under this act are prohibited from being employed
26 by a pharmaceutical manufacturer, a pharmacy benefits management
27 company, or be employed by any agency administering state purchased
28 health care programs. As a condition of appointment to the
29 prescription drug board or any committee, each member must disclose any
30 potential conflict of interest, including receipt of any remuneration,
31 grants, or other compensation from a pharmaceutical manufacturer or
32 pharmaceutical benefits management company.

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

35 The administrator shall:

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

6 (2) Obtain in writing from all prescribers either: (a) An
7 affirmative statement endorsing the preferred drug list and
8 acknowledging the therapeutic substitution authority granted to
9 pharmacists when there is no direction to dispense the prescription as
10 written, or (b) a statement declining to endorse the preferred drug
11 list; and

12 (3) Provide each pharmacy with a listing of the prescribers who
13 have not endorsed the preferred drug list.

14 NEW SECTION. **Sec. 7.** A new section is added to chapter 74.09 RCW
15 to read as follows:

16 (1) To the extent funds are appropriated specifically for this
17 purpose, and subject to any conditions placed on appropriations made
18 for this purpose, the department shall design the senior prescription
19 drug assistance program. Neither the benefits of, nor eligibility for,
20 the program is considered to be an entitlement.

21 (2) The department is directed to obtain necessary federal waivers
22 to implement this program. Consistent with federal waiver conditions,
23 the department is authorized to charge enrollment fees, premiums, or
24 point-of-service cost-sharing to enrollees of the program. In addition
25 to seeking a federal waiver, the department shall develop a state-only
26 alternative that does not require federal approval or funding.

27 (3) Eligibility for this program is limited to persons: (a) Who
28 are age sixty-five and older; (b) whose family income does not exceed
29 two hundred percent of the federal poverty level as adjusted for family
30 size and determined annually by the federal department of health and
31 human services; (c) who do not otherwise have insurance that provides
32 prescription drug coverage; and (d) who are not otherwise eligible
33 under Title XIX of the federal social security act.

34 (4) The department is authorized to use a cost-effective
35 prescription drug benefit design. Consistent with federal waiver
36 conditions, this benefit design can be different than the benefit
37 design offered under the medical assistance program. The benefit

1 design may include a deductible benefit that provides coverage when
2 enrollees incur higher prescription drug costs as defined by the
3 department. The department also may offer more than one benefit
4 design.

5 (5) The department is authorized to limit enrollment of persons who
6 qualify for the program so as to prevent an overexpenditure of
7 appropriations for this program or to assure necessary compliance with
8 federal waiver budget neutrality requirements. The department shall
9 not reduce existing medical assistance program eligibility or benefits
10 to assure compliance with federal waiver budget neutrality
11 requirements.

12 (6) No funds from an approved federal waiver that allows for the
13 collection of premiums from medicaid clients will be used to finance
14 the medicaid prescription drug assistance program.

15 (7) This program will be terminated within twelve months after
16 implementation of a prescription drug benefit under Title XVIII of the
17 social security act.

18 (8) The department shall provide recommendations to the appropriate
19 committees of the senate and house of representatives by November 15,
20 2003, on financing options available to support the senior prescription
21 drug assistance program. In recommending financing options, the
22 department shall explore every opportunity to maximize federal funding
23 to support the program.

24 **Sec. 8.** RCW 43.72.900 and 2002 c 371 s 909 are each amended to
25 read as follows:

26 (1) The health services account is created in the state treasury.
27 Moneys in the account may be spent only after appropriation. Subject
28 to the transfers described in subsection (3) of this section, moneys in
29 the account may be expended only for maintaining and expanding health
30 services access for low-income residents, maintaining and expanding the
31 public health system, maintaining and improving the capacity of the
32 health care system, containing health care costs, and the regulation,
33 planning, and administering of the health care system.

34 (2) Funds deposited into the health services account under RCW
35 82.24.028 and 82.26.028 shall be used solely as follows:

36 (a) Five million dollars for the state fiscal year beginning July
37 1, 2002, and five million dollars for the state fiscal year beginning

1 July 1, 2003, shall be appropriated by the legislature for programs
2 that effectively improve the health of low-income persons, including
3 efforts to reduce diseases and illnesses that harm low-income persons.
4 The department of health shall submit a report to the legislature on
5 March 1, 2002, evaluating the cost-effectiveness of programs that
6 improve the health of low-income persons and address diseases and
7 illnesses that disproportionately affect low-income persons, and making
8 recommendations to the legislature on which of these programs could
9 most effectively utilize the funds appropriated under this subsection.

10 (b) Ten percent of the funds deposited into the health services
11 account under RCW 82.24.028 and 82.26.028 remaining after the
12 appropriation under (a) of this subsection shall be transferred no less
13 frequently than annually by the treasurer to the (~~tobacco prevention
14 and control account established by RCW 43.79.480. The funds
15 transferred shall be used exclusively for implementation of the
16 Washington state tobacco prevention and control plan and shall be used
17 only to supplement, and not supplant, funds in the tobacco prevention
18 and control account as of January 1, 2001, however, these funds may be
19 used to replace funds appropriated by the legislature for further
20 implementation of the Washington state tobacco prevention and control
21 plan for the biennium beginning July 1, 2001. For each state fiscal
22 year beginning on and after July 1, 2002, the legislature shall
23 appropriate no less than twenty six million two hundred forty thousand
24 dollars from the tobacco prevention and control account for
25 implementation of the Washington state tobacco prevention and control
26 plan~~) senior prescription drug assistance program account established
27 in section 9 of this act.

28 (c) Because of its demonstrated effectiveness in improving the
29 health of low-income persons and addressing illnesses and diseases that
30 harm low-income persons, the remainder of the funds deposited into the
31 health services account under RCW 82.24.028 and 82.26.028 shall be
32 appropriated solely for Washington basic health plan enrollment as
33 provided in chapter 70.47 RCW. Funds appropriated pursuant to this
34 subsection (2)(c) must supplement, and not supplant, the level of state
35 funding needed to support enrollment of a minimum of one hundred
36 twenty-five thousand persons for the fiscal year beginning July 1,
37 2002, and every fiscal year thereafter. The health care authority may
38 enroll up to twenty thousand additional persons in the basic health

1 plan during the biennium beginning July 1, 2001, above the base level
2 of one hundred twenty-five thousand enrollees. The health care
3 authority may enroll up to fifty thousand additional persons in the
4 basic health plan during the biennium beginning July 1, 2003, above the
5 base level of one hundred twenty-five thousand enrollees. For each
6 biennium beginning on and after July 1, 2005, the health care authority
7 may enroll up to at least one hundred seventy-five thousand enrollees.
8 Funds appropriated under this subsection may be used to support
9 outreach and enrollment activities only to the extent necessary to
10 achieve the enrollment goals described in this section.

11 (3) Prior to expenditure for the purposes described in subsection
12 (2) of this section, funds deposited into the health services account
13 under RCW 82.24.028 and 82.26.028 shall first be transferred to the
14 following accounts to ensure the continued availability of previously
15 dedicated revenues for certain existing programs:

16 (a) To the violence reduction and drug enforcement account under
17 RCW 69.50.520, two million two hundred forty-nine thousand five hundred
18 dollars for the state fiscal year beginning July 1, 2001, four million
19 two hundred forty-eight thousand dollars for the state fiscal year
20 beginning July 1, 2002, seven million seven hundred eighty-nine
21 thousand dollars for the biennium beginning July 1, 2003, six million
22 nine hundred thirty-two thousand dollars for the biennium beginning
23 July 1, 2005, and six million nine hundred thirty-two thousand dollars
24 for each biennium thereafter, as required by RCW 82.24.020(2);

25 (b) To the health services account under this section, nine million
26 seventy-seven thousand dollars for the state fiscal year beginning July
27 1, 2001, seventeen million one hundred eighty-eight thousand dollars
28 for the state fiscal year beginning July 1, 2002, thirty-one million
29 seven hundred fifty-five thousand dollars for the biennium beginning
30 July 1, 2003, twenty-eight million six hundred twenty-two thousand
31 dollars for the biennium beginning July 1, 2005, and twenty-eight
32 million six hundred twenty-two thousand dollars for each biennium
33 thereafter, as required by RCW 82.24.020(3); and

34 (c) To the water quality account under RCW 70.146.030, two million
35 two hundred three thousand five hundred dollars for the state fiscal
36 year beginning July 1, 2001, four million two hundred forty-four
37 thousand dollars for the state fiscal year beginning July 1, 2002,
38 eight million one hundred eighty-two thousand dollars for the biennium

1 beginning July 1, 2003, seven million eight hundred eighty-five
2 thousand dollars for the biennium beginning July 1, 2005, and seven
3 million eight hundred eighty-five thousand dollars for each biennium
4 thereafter, as required by RCW 82.24.027(2)(a).

5 During the 2001-2003 fiscal biennium, the legislature may transfer
6 from the health services account such amounts as reflect the excess
7 fund balance of the account.

8 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.79 RCW
9 to read as follows:

10 The senior prescription drug assistance program account is created
11 in the state treasury. Funds deposited in the account shall be used to
12 support the activities of section 7 of this act. Expenditures from the
13 account are subject to appropriation.

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

16 The administrator shall, directly or by interagency agreement or
17 contract, establish and operate a statewide senior prescription drug
18 information clearinghouse. The clearinghouse shall:

19 (1) Promote access to necessary prescription drugs for persons over
20 age sixty-five who reside in Washington state;

21 (2) Make information available on a statewide basis regarding
22 private and public programs that provide financial assistance to
23 seniors for the purchase of prescription drugs;

24 (3) Provide educational information about the preferred drug list
25 and methods to purchase prescription drugs most cost-effectively and
26 efficiently, including information about generic drugs and the
27 potential for dangerous drug interactions; and

28 (4) Provide individual education and assistance regarding
29 prescription drug financial assistance programs.

30 Prior to July 1, 2005, the administrator shall provide for an
31 evaluation of the effectiveness and potential continuation of the
32 clearinghouse.

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

35 The administrator may solicit and accept grants or other funds from

1 public and private sources to support activities under this act,
2 including but not limited to consumer and provider education. Any
3 grants or funds received may be used to enhance these activities as
4 long as program standards established by the administrator are
5 maintained. Except for supplemental rebates, no money from the
6 pharmaceutical industry shall be used to support the activities under
7 this act. Private foundations shall be prohibited from passing through
8 funding from a pharmaceutical manufacturer when it gives the appearance
9 of a conflict of interest or an attempt to exert undue influence on the
10 implementation of this act. The administrator shall report to the
11 appropriate committees of the senate and house of representatives on
12 any grants or funds received under this section within thirty days of
13 their receipt.

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

16 The administrator shall contract with an independent entity to
17 evaluate the implementation and impacts of the prescription drug
18 board's activities under this act.

19 (1) The evaluation shall assess:

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

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

25 (c) The extent to which the program has lessened administrative
26 burdens on health care providers participating in state purchased
27 health care programs;

28 (d) The impact of the program on prescription drug expenditures
29 across state purchased health care programs; and

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

33 (2) The administrator shall make every effort to pursue and obtain
34 federal or private foundation funding for the evaluation from entities
35 such as the federal agency for health care research and quality or the
36 Milbank memorial fund. To ensure that results of the evaluation are

1 objective and unbiased, private foundation funds derived from the
2 pharmaceutical industry may not be used to fund the evaluation.

3 (3) The results of the evaluation must be submitted to the governor
4 and the legislature by January 1, 2007.

5 NEW SECTION. **Sec. 13.** A new section is added to chapter 69.41 RCW
6 to read as follows:

7 Any pharmacist filling a prescription under the preferred drug list
8 program established under section 4 of this act shall substitute the
9 preferred drug for any nonpreferred drug in a given therapeutic
10 category, unless:

11 (1) The endorsing prescriber has indicated on the prescription that
12 the nonpreferred drug must be dispensed as written; or

13 (2) The prescription is for a refill of an antipsychotic,
14 chemotherapy, antiretroviral, or immunosuppressive drug, in which case
15 the pharmacist shall dispense the nonpreferred drug as written. When
16 a substitution is made, on a new prescription or as a result of a
17 change in the preferred drug within a therapeutic class, the prescriber
18 must be notified in writing by the dispensing pharmacist of the
19 specific drug and dose dispensed.

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

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

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

29 This act does not apply to state purchased health care services
30 that are purchased from or through managed care organizations, or group
31 model health maintenance organizations that are accredited by the
32 national committee for quality assurance. The administrator shall
33 exempt those prescribers that practice in a group model health
34 maintenance organization that is accredited by the national committee

1 for quality assurance from the endorsement provisions of section 6 of
2 this act.

3 NEW SECTION. **Sec. 16.** The therapeutic consultation service
4 operated by the department of social and health services, with the
5 exception of the intensive benefits management and academic detailing
6 components of the program, expires on July 1, 2005. However, the
7 department shall terminate the therapeutic consultation service four
8 brand limit program component earlier if, upon monitoring prescriber
9 compliance with the preferred drug list and trends in the therapeutic
10 consultation service four brand limit program component, the department
11 determines the number of pharmacy claims that trigger the four brand
12 edit exception under therapeutic consultation services is below the
13 threshold set by the legislature in the biennial omnibus operating
14 budget bill for three consecutive months. The threshold is the point
15 where anticipated savings associated with the therapeutic consultation
16 service four brand limit program component no longer justify its
17 operation due to the implementation of this act.

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

20 The health care authority and agencies that administer state
21 purchased health care programs are authorized to adopt rules
22 implementing this act.

23 NEW SECTION. **Sec. 18.** If specific funding for this act
24 referencing this act by bill or chapter number, is not provided by June
25 30, 2003, in the omnibus appropriations act, this act is null and void.

26 NEW SECTION. **Sec. 19.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 20.** If any part of this act is found to be in
31 conflict with federal requirements that are a prescribed condition to
32 the allocation of federal funds to the state, the conflicting part of
33 this act is inoperative solely to the extent of the conflict and with

1 respect to the agencies directly affected, and this finding does not
2 affect the operation of the remainder of this act in its application to
3 the agencies concerned. Rules adopted under this act must meet federal
4 requirements that are a necessary condition to the receipt of federal
5 funds by the state.

6 NEW SECTION. **Sec. 21.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and takes effect
9 immediately.

--- END ---