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SENATE BILL 5252

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State of Washington

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2009 Regular Session

By Senators Brandland, Hargrove, and Shin

Read first time 01/19/09. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to correctional facility policies regarding  
2 medication management; amending RCW 70.48.020; adding new sections to  
3 chapter 70.48 RCW; and adding a new section to chapter 18.64 RCW.

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

5 NEW SECTION. **Sec. 1.** (1) When funded, the Washington association  
6 of sheriffs and police chiefs shall convene a jail medication  
7 management work group to develop a model policy regarding the  
8 management of medications in jails, to be applicable to jails as  
9 defined in RCW 70.48.020. The work group shall address medication  
10 management for all units of local government that operate jails that do  
11 not have an on-site pharmacy nor own or operate, in whole or in part,  
12 a pharmacy. The model policy shall be designed to reflect best  
13 practices regarding medication management and to provide guidance in  
14 the areas specified under this section.

15 (2) In developing the model policy, the work group shall consult  
16 with members of the pharmaceutical community, including the Washington  
17 state pharmacy association and the board of pharmacy. The association  
18 shall review and consider the current policies and practices of cities  
19 and counties throughout the state, as directed in RCW 70.48.071, other

1 state policies and practices, and the standards of national  
2 organizations, such as the national commission on correctional health  
3 care and the American jail association.

4 (3) The jail medication management work group shall present the  
5 final model policy to the Washington association of sheriffs and police  
6 chiefs for adoption or rejection by December 31, 2009.

7 (4) The model policy developed by the association shall provide  
8 written guidelines regarding jail policies and procedures for the  
9 proper dispensing, storage, control, delivery, administration, and  
10 disposal of medications. The guidelines shall address the following  
11 matters:

12 (a) Provision for agreement between the jail and a licensed  
13 pharmacist, pharmacy, or other licensed health care provider or health  
14 care facility to ensure access to pharmaceutical services on a twenty-  
15 four hour a day basis, including consultation and dispensing services;

16 (b) Intake and screening for inmate medical conditions requiring  
17 pharmaceutical services, and evaluation and verification of any  
18 pharmaceuticals or medications an inmate has in his or her possession  
19 at intake;

20 (c) Notice to inmates of jail policies for gaining access to  
21 pharmaceutical services during confinement;

22 (d) Verifying and recording that medications have or have not been  
23 delivered, administered, and ingested by an inmate;

24 (e) Reporting by the responsible pharmacist to the jail  
25 administrator or chief law enforcement executive regarding services  
26 provided to the jail by the pharmacy;

27 (f) Written policies regarding the qualifications of and training  
28 for jail personnel regarding all aspects of medication services  
29 provided including, but not limited to, nonpractitioner jail personnel  
30 authorized to deliver and administer prescription and nonprescription  
31 medications under section 4 of this act;

32 (g) Provisions for providing prescribed medication to inmates upon  
33 their release or transfer as necessary;

34 (h) Maintenance of a medication storage and delivery system, which  
35 shall ensure that all medications are appropriately secured, stored,  
36 and regularly inventoried, and shall prohibit stocks of prescription  
37 medication from being maintained within a jail without an on-site

1 pharmacy, except for the storage of medications to be dispensed to a  
2 specific inmate as directed by a licensed practitioner;

3 (i) Ensuring that all medications requiring a prescription are  
4 properly dispensed, labeled, packaged, and transferred only in  
5 accordance with the direction from the pharmacist and applicable state  
6 laws;

7 (j) Ensuring the proper disposition of unused medications;

8 (k) Maintaining proper and complete inmate files regarding all  
9 prescriptions and administration of medications;

10 (l) Prohibiting the administration, distribution, delivery, or  
11 dispensing of medication by inmates;

12 (m) Policies and procedures regarding nonprescription medications,  
13 including how they are to be made available;

14 (n) Policies regarding inmate self-administration of prescription  
15 and nonprescription medications and safeguards for preventing potential  
16 abuse;

17 (o) Preventing the unauthorized use of medications by anyone other  
18 than the intended patient;

19 (p) Providing for the routine review and renewal of medication  
20 orders by a licensed practitioner with prescriptive authority to ensure  
21 patient safety and appropriateness of medication;

22 (q) Providing for the right of an individual to refuse medication,  
23 except as required by court order and of the right to informed consent;  
24 and

25 (r) Any other policies or procedures deemed applicable by the work  
26 group.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.64 RCW  
28 to read as follows:

29 Nothing in this act or in any provision of law shall be interpreted  
30 to invest the department or the board with the authority to regulate or  
31 establish standards regarding a jail as defined in RCW 70.48.020 that  
32 does not operate, in whole or in part, a pharmacy or a correctional  
33 pharmacy. This section does not limit the board's authority to  
34 regulate a pharmacist that has entered into an agreement with a jail  
35 for the provision of pharmaceutical services.

1       **Sec. 3.** RCW 70.48.020 and 1987 c 462 s 6 are each amended to read  
2 as follows:

3       As used in this chapter the words and phrases in this section shall  
4 have the meanings indicated unless the context clearly requires  
5 otherwise.

6       (1) "Holding facility" means a facility operated by a governing  
7 unit primarily designed, staffed, and used for the temporary housing of  
8 adult persons charged with a criminal offense prior to trial or  
9 sentencing and for the temporary housing of such persons during or  
10 after trial and/or sentencing, but in no instance shall the housing  
11 exceed thirty days.

12       (2) "Detention facility" means a facility operated by a governing  
13 unit primarily designed, staffed, and used for the temporary housing of  
14 adult persons charged with a criminal offense prior to trial or  
15 sentencing and for the housing of adult persons for purposes of  
16 punishment and correction after sentencing or persons serving terms not  
17 to exceed ninety days.

18       (3) "Special detention facility" means a minimum security facility  
19 operated by a governing unit primarily designed, staffed, and used for  
20 the housing of special populations of sentenced persons who do not  
21 require the level of security normally provided in detention and  
22 correctional facilities including, but not necessarily limited to,  
23 persons convicted of offenses under RCW 46.61.502 or 46.61.504.

24       (4) "Correctional facility" means a facility operated by a  
25 governing unit primarily designed, staffed, and used for the housing of  
26 adult persons serving terms not exceeding one year for the purposes of  
27 punishment, correction, and rehabilitation following conviction of a  
28 criminal offense.

29       (5) "Jail" means any holding, detention, special detention, or  
30 correctional facility as defined in this section.

31       (6) "Health care" means preventive, diagnostic, and rehabilitative  
32 services provided by licensed health care professionals and/or  
33 facilities; such care to include providing prescription drugs where  
34 indicated.

35       (7) "Governing unit" means the city and/or county or any  
36 combinations of cities and/or counties responsible for the operation,  
37 supervision, and maintenance of a jail.

1 (8) "Major urban" means a county or combination of counties which  
2 has a city having a population greater than twenty-six thousand based  
3 on the 1978 projections of the office of financial management.

4 (9) "Medium urban" means a county or combination of counties which  
5 has a city having a population equal to or greater than ten thousand  
6 but less than twenty-six thousand based on the 1978 projections of the  
7 office of financial management.

8 (10) "Rural" means a county or combination of counties which has a  
9 city having a population less than ten thousand based on the 1978  
10 projections of the office of financial management.

11 (11) "Office" means the office of financial management.

12 (12) "Medication assistance" means assistance rendered by  
13 nonpractitioner jail personnel to an inmate residing in a jail to  
14 facilitate the individual's self-administration of a legend drug or  
15 controlled substance or nonprescription medication. "Medication  
16 assistance" includes reminding or coaching the individual, handing the  
17 medication container to the individual, opening the individual's  
18 medication container, using an enabler, or placing the medication in  
19 the individual's hand.

20 (13) "Practitioner" has the same meaning as provided in RCW  
21 69.41.010.

22 (14) "Nonpractitioner jail personnel" means appropriately trained  
23 staff who are authorized to manage, deliver, or administer prescription  
24 and nonprescription medication under section 4 of this act.

25 (15) "Administration" means the direct application of a drug  
26 whether by ingestion or inhalation, to the body of an inmate by a  
27 practitioner or nonpractitioner jail personnel.

28 (16) "Drug" and "legend drug" have the same meanings as provided in  
29 RCW 69.41.010.

30 (17) "Medication" means a drug, legend drug, or controlled  
31 substance requiring a prescription or an over-the-counter or  
32 nonprescription drug.

33 (18) "Deliver" or "delivery" means the actual, constructive, or  
34 attempted transfer from one person to another of medication whether or  
35 not there is an agency relationship.

36 NEW SECTION. Sec. 4. Jails may provide for the delivery and

1 administration of medications and medication assistance for inmates in  
2 their custody by nonpractitioner jail personnel, subject to the  
3 following conditions:

4 (1) The jail administrator or his or her designee, or chief law  
5 enforcement executive or his or her designee, shall enter into an  
6 agreement between the jail and a licensed pharmacist, pharmacy, or  
7 other licensed health care provider or health care facility to ensure  
8 access to pharmaceutical services on a twenty-four hour a day basis,  
9 including consultation and dispensing services.

10 (2) The jail administrator or chief law enforcement executive shall  
11 adopt policies which address the designation and training of  
12 nonpractitioner jail personnel who may deliver and administer  
13 medications or provide medication assistance to inmates as provided in  
14 this chapter. The policies must address the administration of  
15 prescriptions from licensed practitioners prescribing within the scope  
16 of their prescriptive authority, the identification of medication to be  
17 delivered and administered or administered through medication  
18 assistance, the means of securing medication with attention to the  
19 safeguarding of legend drugs, and the means of maintaining a record of  
20 the delivery, administration, self-administration, or medication  
21 assistance of all medication.

22 (3) The jail administrator or chief law enforcement executive shall  
23 seek input from one or more pharmacists and licensed physicians or  
24 nurses in the course of developing the policies described in subsection  
25 (1) of this section and shall give strong consideration to the adoption  
26 of the model policy of the Washington association of sheriffs and  
27 police chiefs' adopted pursuant to section 1 of this act. Any jail not  
28 adopting the model policy shall provide the association with a copy of  
29 the jail's current policies regarding medication management.

30 (4) The practitioner or nonpractitioner jail personnel delivering,  
31 administering, or providing medication assistance is in receipt of (a)  
32 for prescription drugs, a written, current, and unexpired prescription,  
33 and instructions for administration from a licensed practitioner  
34 prescribing within the scope of his or her prescriptive authority for  
35 administration of the prescription drug; (b) for nonprescription drugs,  
36 a written, current, and unexpired instruction from a licensed  
37 practitioner regarding the administration of the nonprescription drug;

1 and (c) for minors under the age of eighteen, a written, current  
2 consent from the minor's parent, legal guardian, or custodian  
3 consenting to the administration of the medication.

4 (5) Nonpractitioner jail personnel may help in the preparation of  
5 legend drugs or controlled substances for self-administration where a  
6 practitioner has determined and communicated orally or by written  
7 direction that the medication preparation assistance is necessary and  
8 appropriate. Medication assistance shall not include assistance with  
9 intravenous medications or injectable medications.

10 (6) Nonpractitioner jail personnel shall not include inmates.

11 (7) All medication is delivered and administered and all medication  
12 assistance is provided by a practitioner or nonpractitioner jail  
13 personnel pursuant to the policies adopted in this section, and in  
14 compliance with the prescription of a practitioner prescribing within  
15 the scope of his or her prescriptive authority, or the written  
16 instructions as provided in this section.

17 (8) The jail administrator or the chief law enforcement executive  
18 shall ensure that all nonpractitioner jail personnel authorized to  
19 deliver, administer, and provide medication assistance are trained  
20 pursuant to the policies adopted in this section prior to being  
21 permitted to deliver, administer, or provide medication assistance to  
22 an inmate.

23 NEW SECTION. **Sec. 5.** Sections 1 and 4 of this act are each added  
24 to chapter 70.48 RCW.

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