
SENATE BILL 5234

State of Washington

62nd Legislature

2011 Regular Session

By Senators Kline, Swecker, Keiser, Rockefeller, Shin, Conway, Pridemore, Ranker, Pflug, Nelson, Chase, Kohl-Welles, Haugen, White, Regala, Murray, and Fraser

Read first time 01/18/11. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to providing safe collection and disposal of
2 unwanted drugs from residential sources through a producer-provided and
3 funded product stewardship program; amending RCW 69.41.030 and
4 18.64.005; adding a new section to chapter 42.56 RCW; adding a new
5 chapter to Title 70 RCW; creating a new section; and prescribing
6 penalties.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that Washington state
9 citizens benefit from the authorized use of prescription and over-the-
10 counter medicines. The proper use of medicines helps to cure, treat,
11 and prevent diseases, and to prolong life. Failure to properly dispose
12 of leftover and expired medicines can lead to the illegal possession
13 and abuse of potentially addictive medicines by others, and to the
14 consumption of medicines by children and others, potentially causing
15 addiction, poisonings, overdoses, and other harmful health effects.
16 Moreover, disposing of medicines by flushing them down the toilet or
17 placing them in the garbage can lead to the contamination of
18 groundwater and other bodies of water, contributing to long-term harm
19 to the environment and to animal life. The legislature finds that

1 Washington residents need a safe method for disposal of medicines
2 through "take-back" programs that provide environmentally sound
3 disposal of medicines with effective controls against diversion. The
4 legislature intends that the costs of properly collecting and disposing
5 of leftover and expired medicines be included in the producer's
6 business costs, and further finds that the producers of the medicines
7 are best positioned to efficiently develop and operate programs for the
8 safe and convenient collection and disposal of unused medicines.

9 NEW SECTION. **Sec. 2.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires otherwise.

11 (1) "Association" means the medicine return association established
12 in section 3 of this act.

13 (2)(a) "Covered drug" includes all legend and nonlegend drugs from
14 residential sources sold in any form. This includes brand name and
15 generic drugs.

16 (b) "Covered drug" does not include:

17 (i) Herbal-based remedies and homeopathic drugs, products, or
18 remedies;

19 (ii) Cosmetics, shampoos, sunscreens, toothpaste, lip balm,
20 antiperspirants, or other personal care products that are regulated as
21 both cosmetics and nonlegend drugs under the federal food, drug, and
22 cosmetic act;

23 (iii) Drugs for which producers provide a take-back program as part
24 of a federal food and drug administration managed risk evaluation and
25 mitigation strategy (21 U.S.C. Sec. 355-1);

26 (iv) Drugs that are biological products as defined by 21 C.F.R.
27 600.3(h) as it exists on the effective date of this section if the
28 producer already provides a take-back program; and

29 (v) Pet pesticide products contained in pet collars, powders, or
30 shampoos.

31 (3) "Drug wholesaler" means a corporation, individual, or other
32 entity which buys drugs or devices for resale and distribution to
33 corporations, individuals, or entities other than consumers.

34 (4) "Drugs" means:

35 (a) Articles recognized in the official United States
36 pharmacopoeia, the official national formulary, the official

1 homeopathic pharmacopoeia of the United States, or any supplement of
2 the formulary or those pharmacopoeias;

3 (b) Substances intended for use in the diagnosis, cure, mitigation,
4 treatment, or prevention of disease in humans or other animals;

5 (c) Substances, other than food, intended to affect the structure
6 or any function of the body of humans or other animals; or

7 (d) Substances intended for use as a component of any substances
8 specified in (a), (b), or (c) of this subsection, but not including
9 medical devices or their component parts or accessories.

10 (5) "Generic drug" means drugs that are chemically identical or
11 bioequivalent to a brand name drug in dosage form, safety, strength,
12 route of administration, quality, performance characteristics, and
13 intended use. However, inactive ingredients may vary.

14 (6) "Legend drug" means drugs, including controlled substances
15 under chapter 69.50 RCW, that are required by any applicable federal or
16 state law or regulation to be dispensed by prescription only or are
17 restricted to use by practitioners only.

18 (7) "Nonlegend drug" means drugs that may be lawfully sold without
19 a prescription.

20 (8) "Person" means a firm, sole proprietorship, corporation,
21 limited liability company, general partnership, limited partnership,
22 limited liability partnership, association, cooperative, or other
23 entity of any kind or nature.

24 (9) "Producer" means the person who:

25 (a) Has legal ownership of the brand, brand name, or cobrand of the
26 covered drug or manufactures a generic covered drug sold in Washington
27 state. "Producer" does not include a retailer who puts its store label
28 on a covered drug or a pharmacist who compounds a prescribed individual
29 drug product for a patient;

30 (b) Imports a covered drug branded or manufactured by a producer
31 that meets the definition under (a) of this subsection and has no
32 physical presence in the United States; or

33 (c) Sells at wholesale a covered drug, does not have legal
34 ownership of the brand, and elects to fulfill the responsibilities of
35 the producer for that covered drug.

36 (10) "Product stewardship program" means a statewide program for
37 the collection, transportation, and disposal of unwanted covered drugs

1 that is financed by the producers of those products and managed by the
2 association.

3 (11) "Residential sources" includes single and multiple-family
4 residences, and locations where household drugs are unused, unwanted,
5 disposed, or abandoned, such as hospice services, boarding homes,
6 schools, foster care, day care, and other locations where either people
7 or their pet animals, or both, reside on a temporary or permanent
8 basis. This does not include waste from hospitals, clinics,
9 pharmacies, airport security, drug seizures by law enforcement,
10 businesses, or other nonresidential or business sources identified by
11 the board of pharmacy.

12 (12) "Unwanted covered drug" means any covered drug no longer
13 wanted by its owner or that has been abandoned, discarded, or is
14 intended to be discarded by its owner.

15 NEW SECTION. **Sec. 3.** (1) The association is established as a
16 nonprofit product stewardship organization to finance and operate a
17 product stewardship program for the collection, transportation, and
18 disposal of unwanted covered drugs. Membership in the association must
19 be open to all producers of covered drugs sold in the state and all
20 producers of covered drugs sold in the state must participate in the
21 association's product stewardship program.

22 (2) The association is a nonprofit corporation under chapter 24.03
23 RCW and has the powers granted under that chapter.

24 (3) The association is managed by a board of directors, initially
25 appointed by the secretary of the department of health. The board of
26 directors is to be comprised of representatives of producers whose
27 covered drugs are sold in the state. Any producer of covered drugs, or
28 representative of the producers, may submit recommendations for members
29 of the board of directors to the secretary of the department of health.
30 The board of directors must include, at a minimum, representatives of:

- 31 (a) Two branded legend drugmakers;
- 32 (b) Two generic legend drugmakers;
- 33 (c) Two nonlegend drugmakers; and
- 34 (d) Two biotechnology sector drugmakers.

35 (4) The board of directors of the association shall:

- 36 (a) Prepare and adopt articles of association and bylaws, and
- 37 select a chair;

1 (b) Prepare and adopt a general plan of operation of procedures for
2 the association. The plan of operation must include procedures for
3 assessing costs and collecting funds from participating producers under
4 section 6 of this act. The plan of operation must include a dispute
5 mechanism through which a producer selling covered drugs in the state
6 may challenge an assessment determination by the board of directors,
7 and a mechanism by which the association may notify a producer selling
8 covered drugs in the state that is failing to participate in the
9 association and report such a producer to the board of pharmacy;

10 (c) By January 1, 2013, submit a proposed product stewardship
11 program to the board of pharmacy for review in accordance with section
12 4 of this act; the product stewardship program must be approved and
13 licensed by the board of pharmacy prior to collecting unwanted covered
14 drugs;

15 (d) By January 1, 2014, operate a product stewardship program in
16 accordance with this act;

17 (e) Enter into contracts and agreements with other service
18 providers and entities as necessary, useful, or convenient to provide
19 all or portions of the product stewardship program;

20 (f) Take any legal action necessary or proper for the recovery of
21 an assessment for, on behalf of, or against members of the association
22 or other participating persons; and

23 (g) Perform any other functions as may be necessary or proper to
24 provide the product stewardship program and to affect any or all of the
25 purposes for which the association is organized.

26 (5) The members of the board of directors serve without
27 compensation but are entitled to reimbursement, solely from the funds
28 of the association, for expenses incurred in the discharge of their
29 duties under this chapter.

30 (6) The association shall provide the product stewardship program
31 described in this act without using state or local government funds.

32 (7) The board of pharmacy may audit the activities of the
33 association as necessary. The board of pharmacy, department of
34 ecology, or department of health staff may access any facilities or
35 property of the association as necessary to conduct inspections or
36 investigate complaints.

1 NEW SECTION. **Sec. 4.** (1) In developing a proposed product
2 stewardship program, the association must provide opportunities for
3 public comment, including at least one public hearing. Notice of the
4 public hearing must be provided by the association to the department of
5 health, the board of pharmacy, the department of ecology, the
6 Washington association of sheriffs and police chiefs, covered drug
7 retailers, substance abuse professionals, local governments, solid
8 waste professionals, water quality professionals, and the general
9 public.

10 (2) After public comment has been received and by January 1, 2013,
11 the association's proposed product stewardship program must be
12 submitted to the board of pharmacy for review. The board of pharmacy
13 shall consult with the department of ecology on any element of the
14 proposed program including transportation and disposal systems, secure
15 tracking and handling, package recycling, and public education. The
16 board of pharmacy must consult with the Washington association of
17 sheriffs and police chiefs on the adequacy of the proposed program's
18 security measures for collection, transportation, and disposal of
19 unwanted covered drugs.

20 (3) After the review and consultation under subsection (2) of this
21 section and within ninety days after receipt of the proposed product
22 stewardship program, the board of pharmacy must either approve or
23 reject the association's proposed product stewardship program and, if
24 rejected, provide reasons for rejection. If rejected, the association
25 must:

26 (a) Submit a revised product stewardship program within sixty days
27 after receiving notice of the rejection; or

28 (b) Appeal the board of pharmacy's decision under the
29 administrative procedure act, chapter 34.05 RCW, within sixty days
30 after receiving notice of the rejection.

31 (4) The association shall annually invite comments from health care
32 facilities, health care practitioners, pharmacists, local governments,
33 law enforcement personnel, and citizens on their satisfaction with the
34 services provided by the product stewardship program. This information
35 must be used by the association in developing proposed product
36 stewardship program updates and revisions. This information must also
37 be provided to the board of pharmacy and must be used by the board of
38 pharmacy in reviewing proposed program updates and revisions.

1 (5) At least every four years, the association must update its
2 product stewardship program and submit the updated program to the board
3 of pharmacy for review using the process described in subsections (2)
4 and (3) of this section.

5 NEW SECTION. **Sec. 5.** The association's product stewardship
6 program, which must be developed and reviewed according to section 4 of
7 this act, must provide the following:

8 (1) A description of the proposed collection system. The
9 collection system for all unwanted covered drugs must be safe, secure,
10 and protect patient information. The collection system must be
11 convenient and adequately serve the needs of residents in both urban
12 and rural areas. The collection system must provide, at a minimum, one
13 drop-off collection site in all counties in the state and one drop-off
14 collection site in all cities with a population greater than ten
15 thousand, on an ongoing, year-round basis. However, if a drop-off
16 location cannot be arranged in a specific county or city, prepaid
17 mailing envelopes must be provided;

18 (2) In accordance with requirements stated in sections 6(4) and 7
19 of this act, the collection system shall incorporate drop-off
20 collection sites for unwanted covered drugs in existence on the
21 effective date of this section if they meet program requirements, and
22 additional collectors to improve convenience and availability of
23 services;

24 (3) A description of the handling and disposal system, including
25 identification of and contact information for collectors, transporters,
26 and waste disposal facilities in accordance with section 11 of this act
27 to be used by the product stewardship program;

28 (4) A description of how the association will use existing
29 providers of waste pharmaceutical services to the extent possible and
30 in accordance with section 11 of this act;

31 (5) A description of how covered drugs will be separated from
32 packaging to the extent possible to reduce transportation and disposal
33 costs and how drug packaging will be recycled to the extent feasible;

34 (6) The policies and procedures to be followed by persons in charge
35 of unwanted covered drugs collected pursuant to the product stewardship
36 program;

1 (7) A description of how the collected, unwanted covered drugs are
2 tracked through to final disposal and how safety and security is
3 maintained;

4 (8) A description of how patient information on drug packaging will
5 be kept secure during collection, transportation, and disposal;

6 (9) A description of the public education effort and communications
7 strategy required in section 10 of this act; and

8 (10) Contact information for all drug producers participating in
9 the association.

10 NEW SECTION.

Sec. 6.

(1) The association shall pay all
11 administrative and operational costs related to the product stewardship
12 program. Association costs must be financed by producers who sell
13 covered drugs in this state. The association board of directors shall
14 determine a method for equitably apportioning costs among producers
15 whose covered drugs are sold in this state, and determine the method
16 and timing of assessment collection. Each producer selling covered
17 drugs in this state must be assessed and is required to timely remit
18 payment to the association for its share of the association's total
19 costs. Moneys remitted to the association under this section must be
20 retained by the association and used solely for the administration and
21 operation of the product stewardship program. Administrative and
22 operational costs related to the product stewardship program include
23 the following:

24 (a) Secure collection containers for the required minimum number of
25 collection sites described in section 5(1) of this act;

26 (b) Collection and transportation supplies for the required minimum
27 number of collection sites described in section 5(1) of this act;

28 (c) Mailers and mailings if a mail-back system is developed;

29 (d) Transportation of all collected pharmaceuticals to final
30 disposal, including costs of law enforcement escort if necessary;

31 (e) Environmentally sound disposal of all collected pharmaceuticals
32 under section 11 of this act;

33 (f) Program promotion under section 10 of this act;

34 (g) State agency and board of pharmacy oversight to administer and
35 enforce this chapter under subsection (5) of this section; and

36 (h) Reasonable costs for administration of the association, as
37 determined necessary by the association board of directors.

1 (2) The association board of directors may offer incentives or
2 payments to collectors if necessary to ensure the product stewardship
3 program requirements for the minimum number of collection sites are
4 met, as described in section 5(1) of this act.

5 (3) Producers may not impose a visible fee on consumers when
6 covered drugs are purchased or returned.

7 (4) The total annual cost responsibility to the association,
8 notwithstanding any penalties or fines, may not exceed two million five
9 hundred thousand dollars per calendar year. This number must be
10 annually adjusted for inflation starting in 2012. The association
11 shall report actual annual expenditures and may comment on this limit
12 to the association's total annual cost responsibility in their annual
13 report to the board of pharmacy under section 9 of this act.

14 (5) The secretary of the department of health may establish fees
15 for administering this chapter as provided under RCW 43.70.250. The
16 fees may be charged to the association. The fees must be based on
17 factors relating to administering this chapter. Fees may be
18 established in amounts to fully recover expenses incurred by the board
19 of pharmacy, but must not exceed fifteen percent of the total annual
20 cost responsibility to the association under subsection (4) of this
21 section. The board of pharmacy may use these fee revenues to reimburse
22 the department of ecology for its costs. The board of pharmacy may
23 prioritize the work to implement this chapter if fees are not adequate
24 to fund all costs of administration. Fees paid under this subsection
25 must be deposited into the pharmaceutical product stewardship program
26 account under section 16 of this act.

27 (6) Any producer may appeal an assessment of charges or
28 apportionment of costs to the board of pharmacy under the
29 administrative procedure act, chapter 34.05 RCW.

30 NEW SECTION. **Sec. 7.** This chapter does not require any person to
31 serve as a collector in the product stewardship program. A person may
32 offer to serve as a collector, or may agree to serve as a collector in
33 exchange for incentives or payment offered by the association's board
34 of directors. Collectors may include law enforcement, pharmacies,
35 other relevant public or private locations, such as hospitals, senior
36 centers, community health clinics, fire stations, veterinary clinics,

1 or private sector collectors, and mail-back services, operating in
2 accordance with state and federal laws and regulations for the handling
3 of covered drugs and in compliance with this chapter.

4 NEW SECTION. **Sec. 8.** (1) Any proposed change to the product
5 stewardship program must have prior approval of the board of pharmacy.

6 (2) The product stewardship program must inform the board of
7 pharmacy of changes in collection locations in the product stewardship
8 program fifteen days before the changes occur.

9 NEW SECTION. **Sec. 9.** (1) By June 30, 2015, and annually
10 thereafter, the association must submit a report to the board of
11 pharmacy describing the program's activities during the previous
12 reporting period. The report must include the following:

13 (a) A list of producers participating in the product stewardship
14 program;

15 (b) The amount, by weight, of unwanted covered drugs collected,
16 including the amount by weight from each collection method used;

17 (c) A list of collection sites, if applicable, locations where
18 mailers are provided, if applicable, transporters used, and the
19 disposal facility or facilities used;

20 (d) Whether any safety or security problems occurred during
21 collection, transportation, or disposal of unwanted covered drugs
22 during the reporting period and, if so, what changes have or will be
23 made to policies, procedures, or tracking mechanisms to alleviate the
24 problem and to improve safety and security in the future;

25 (e) A description of the public education and outreach activities
26 in compliance with section 10 of this act implemented during the
27 reporting period;

28 (f) A description of how collected packaging was recycled to the
29 extent feasible, including the recycling facility or facilities used;
30 and

31 (g) The total expenditure of the association during the reporting
32 period, and whether the association foresees a need for adjustment of
33 the total annual cost responsibility under section 6(4) of this act as
34 a result of changes in volumes of collected drugs or other costs.

35 (2) The board of pharmacy must make reports submitted under this
36 section available to the public.

1 (3) For the purposes of this section, "reporting period" means the
2 period commencing January 1st and ending December 31st of the same
3 calendar year.

4 NEW SECTION. **Sec. 10.** (1) The association must promote the use of
5 the product stewardship program and the safe storage and proper
6 disposal of covered drugs so that collection options are widely
7 understood by customers, pharmacists, retailers of covered drugs, and
8 health care practitioners including doctors and other prescribers.

9 (2) The association must establish a toll-free telephone number and
10 web site where collection options will be publicized and prepare
11 educational and outreach materials describing where and how to return
12 unwanted covered drugs to the product stewardship program. These
13 materials must be provided to pharmacies, health care facilities, and
14 other interested parties for dissemination to residential sources.

15 (3) The department of health, the department of ecology, and local
16 governments must promote the use of the product stewardship program and
17 the program's toll-free telephone number and web site through existing
18 educational methods.

19 (4) The association must annually evaluate the effectiveness of its
20 outreach and program activities. At least every four years, this
21 evaluation must include the percentage of residents that are aware of
22 the program and to what extent residents find the program convenient.

23 NEW SECTION. **Sec. 11.** (1) Covered drugs collected under the
24 product stewardship program must be disposed of at a properly permitted
25 hazardous waste disposal facility. However, unwanted covered drugs
26 from residential sources retain all other generator exemptions for
27 household hazardous waste.

28 (2) The association may petition the department of ecology for a
29 waiver from the requirement for use of hazardous waste disposal for all
30 or some of the collected drugs from residential sources if regulatory
31 restrictions prevent reasonable use of hazardous waste disposal
32 facilities. The alternative disposal facility must be approved by the
33 department of ecology, must be properly permitted, may be a solid waste
34 incineration facility conforming with WAC 173-434-160, and cannot be a
35 solid waste landfill or an industrial furnace. Waivers must be

1 biennially reviewed by the department of ecology and are applicable
2 only to disposal of unwanted covered drugs considered to be household
3 hazardous waste from residential sources.

4 (3) The association may petition the department of ecology for
5 approval to use final disposal technologies that provide superior
6 environmental and human health protection than provided by current
7 hazardous waste disposal technologies for drugs if and when those
8 technologies are proven and available. The proposed technology must
9 provide equivalent protection in each, and superior protection in one
10 or more, of the following areas:

- 11 (a) Monitoring of any emissions or waste;
- 12 (b) Worker health and safety;
- 13 (c) Air, water, or land emissions contributing to persistent,
14 bioaccumulative, and toxic pollution; and
- 15 (d) Overall impact to the environment and human health.

16 NEW SECTION. **Sec. 12.** (1) The board of pharmacy may suspend in
17 whole or in part the product stewardship program if it determines that
18 it is necessary to protect the public from imminent danger. The board
19 may refuse, suspend, or revoke the license of the product stewardship
20 program as provided in RCW 18.64.200.

21 (2) If the board of pharmacy determines that the association is not
22 in compliance with this chapter or the program standards adopted by the
23 board of pharmacy under section 15 of this act, the board of pharmacy
24 may send the association a written warning stating the program is not
25 in compliance. The association has thirty days after receipt of the
26 notice to come into compliance. If the association is not in
27 compliance after thirty days, the board of pharmacy may assess a
28 penalty of five thousand dollars for the first violation and ten
29 thousand dollars for the second and each subsequent violation. A
30 subsequent violation occurs each thirty days of noncompliance. This
31 subsection does not preclude the board of pharmacy from suspending the
32 product stewardship program.

33 (3) The association may appeal penalties prescribed under this
34 section under the administrative procedure act, chapter 34.05 RCW.

35 (4) All penalties levied under this section must be deposited into
36 the pharmaceutical product stewardship program account established
37 under section 16 of this act.

1 NEW SECTION. **Sec. 13.** (1) The board of pharmacy shall send a
2 written warning and a copy of this chapter and any rules adopted to
3 implement this chapter to a producer who is not participating in the
4 product stewardship program, or who is not remitting full payment to
5 the association for its share of the association's total costs, and
6 whose covered drug is being sold in the state.

7 (2) A producer not participating in the product stewardship
8 program, or who is not remitting full payment to the association for
9 its share of the association's total costs, whose covered drug
10 continues to be sold in the state sixty days after receiving a written
11 warning from the board of pharmacy must be assessed a penalty of ten
12 thousand dollars for each calendar day that the violation continues.

13 (3) A producer may appeal penalties prescribed under this section
14 under the administrative procedure act, chapter 34.05 RCW.

15 (4) All penalties levied under this section must be deposited into
16 the pharmaceutical product stewardship program account established
17 under section 16 of this act.

18 NEW SECTION. **Sec. 14.** Beginning in 2012, each drug wholesaler
19 that sells any covered drug in the state must provide a list of
20 producers of covered drugs to the board of pharmacy in a form
21 determined by the board of pharmacy. Wholesalers must update the list
22 by January 15th of each year.

23 NEW SECTION. **Sec. 15.** (1) The board of pharmacy may adopt rules
24 necessary to implement, administer, and enforce this chapter.

25 (2) The board of pharmacy, in consultation with the department of
26 ecology, may establish performance standards for the product
27 stewardship program.

28 (3) By December 31, 2016, the board of pharmacy shall report to the
29 appropriate committees of the legislature concerning the status of the
30 product stewardship program and recommendations for changes to this
31 chapter.

32 NEW SECTION. **Sec. 16.** The pharmaceutical product stewardship
33 program account is created in the custody of the state treasurer. All
34 receipts from fees and penalties collected under this chapter must be
35 deposited into the account. Expenditures from the account may be used

1 only for administering this chapter. Only the secretary of the
2 department of health or the secretary's designee may authorize
3 expenditures from the account. The account is subject to allotment
4 procedures under chapter 43.88 RCW, but an appropriation is not
5 required for expenditures.

6 **Sec. 17.** RCW 69.41.030 and 2010 c 83 s 1 are each amended to read
7 as follows:

8 (1) It shall be unlawful for any person to sell, deliver, or
9 possess any legend drug except upon the order or prescription of a
10 physician under chapter 18.71 RCW, an osteopathic physician and surgeon
11 under chapter 18.57 RCW, an optometrist licensed under chapter 18.53
12 RCW who is certified by the optometry board under RCW 18.53.010, a
13 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
14 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
15 commissioned medical or dental officer in the United States armed
16 forces or public health service in the discharge of his or her official
17 duties, a duly licensed physician or dentist employed by the veterans
18 administration in the discharge of his or her official duties, a
19 registered nurse or advanced registered nurse practitioner under
20 chapter 18.79 RCW when authorized by the nursing care quality assurance
21 commission, an osteopathic physician assistant under chapter 18.57A RCW
22 when authorized by the board of osteopathic medicine and surgery, a
23 physician assistant under chapter 18.71A RCW when authorized by the
24 medical quality assurance commission, or any of the following
25 professionals in any province of Canada that shares a common border
26 with the state of Washington or in any state of the United States: A
27 physician licensed to practice medicine and surgery or a physician
28 licensed to practice osteopathic medicine and surgery, a dentist
29 licensed to practice dentistry, a podiatric physician and surgeon
30 licensed to practice podiatric medicine and surgery, a licensed
31 advanced registered nurse practitioner, or a veterinarian licensed to
32 practice veterinary medicine: PROVIDED, HOWEVER, That the above
33 provisions shall not apply to sale, delivery, or possession by drug
34 wholesalers or drug manufacturers, or their agents or employees, or to
35 any practitioner acting within the scope of his or her license, or to
36 a common or contract carrier or warehouseman, or any employee thereof,
37 whose possession of any legend drug is in the usual course of business

1 or employment: PROVIDED FURTHER, That nothing in this chapter or
2 chapter 18.64 RCW shall prevent a family planning clinic that is under
3 contract with the department of social and health services from
4 selling, delivering, possessing, and dispensing commercially
5 prepackaged oral contraceptives prescribed by authorized, licensed
6 health care practitioners.

7 (2) The product stewardship program created in chapter 70.-- RCW
8 (the new chapter created in section 22 of this act) may possess and
9 transport drugs provided that the product stewardship program complies
10 with this chapter.

11 (3)(a) A violation of this section involving the sale, delivery, or
12 possession with intent to sell or deliver is a class B felony
13 punishable according to chapter 9A.20 RCW.

14 (b) A violation of this section involving possession is a
15 misdemeanor.

16 **Sec. 18.** RCW 18.64.005 and 1990 c 83 s 1 are each amended to read
17 as follows:

18 The board shall:

19 (1) Regulate the practice of pharmacy and enforce all laws placed
20 under its jurisdiction;

21 (2) Prepare or determine the nature of, and supervise the grading
22 of, examinations for applicants for pharmacists' licenses;

23 (3) Establish the qualifications for licensure of pharmacists or
24 pharmacy interns;

25 (4) Conduct hearings for the revocation or suspension of licenses,
26 permits, registrations, certificates, or any other authority to
27 practice granted by the board, which hearings may also be conducted by
28 an administrative law judge appointed under chapter 34.12 RCW;

29 (5) Issue subpoenas and administer oaths in connection with any
30 hearing, or disciplinary proceeding held under this chapter or any
31 other chapter assigned to the board;

32 (6) Assist the regularly constituted enforcement agencies of this
33 state in enforcing all laws pertaining to drugs, controlled substances,
34 and the practice of pharmacy, or any other laws or rules under its
35 jurisdiction;

36 (7) Promulgate rules for the dispensing, distribution, wholesaling,
37 and manufacturing of drugs and devices and the practice of pharmacy for

1 the protection and promotion of the public health, safety, and welfare.
2 Violation of any such rules shall constitute grounds for refusal,
3 suspension, or revocation of licenses or any other authority to
4 practice issued by the board;

5 (8) Adopt rules establishing and governing continuing education
6 requirements for pharmacists and other licensees applying for renewal
7 of licenses under this chapter;

8 (9) Be immune, collectively and individually, from suit in any
9 action, civil or criminal, based upon any disciplinary proceedings or
10 other official acts performed as members of such board. Such immunity
11 shall apply to employees of the department when acting in the course of
12 disciplinary proceedings;

13 (10) Suggest strategies for preventing, reducing, and eliminating
14 drug misuse, diversion, and abuse, including professional and public
15 education, and treatment of persons misusing and abusing drugs;

16 (11) Conduct or encourage educational programs to be conducted to
17 prevent the misuse, diversion, and abuse of drugs for health care
18 practitioners and licensed or certified health care facilities;

19 (12) Monitor trends of drug misuse, diversion, and abuse and make
20 periodic reports to disciplinary boards of licensed health care
21 practitioners and education, treatment, and appropriate law enforcement
22 agencies regarding these trends;

23 (13) Enter into written agreements with all other state and federal
24 agencies with any responsibility for controlling drug misuse,
25 diversion, or abuse and with health maintenance organizations, health
26 care service contractors, and health care providers to assist and
27 promote coordination of agencies responsible for ensuring compliance
28 with controlled substances laws and to monitor observance of these laws
29 and cooperation between these agencies. The department of social and
30 health services, the department of labor and industries, and any other
31 state agency including licensure disciplinary boards, shall refer all
32 apparent instances of over-prescribing by practitioners and all
33 apparent instances of legend drug overuse to the department. The
34 department shall also encourage such referral by health maintenance
35 organizations, health service contractors, and health care providers;

36 (14) Adopt rules to implement, administer, and enforce the laws on
37 the collection, transportation, disposal, and possession of unwanted

1 covered drugs from residential sources through producer-provided and
2 funded product stewardship programs under chapter 70.--- RCW (the new
3 chapter created in section 22 of this act).

4 NEW SECTION. **Sec. 19.** A new section is added to chapter 42.56 RCW
5 to read as follows:

6 Producer information provided to the association or to the board of
7 pharmacy under section 6 of this act to determine apportionment of
8 costs is exempt from disclosure under this chapter.

9 NEW SECTION. **Sec. 20.** Nothing in this chapter changes or limits
10 the authority of the Washington utilities and transportation commission
11 to regulate collection of solid waste, including curbside collection of
12 residential recyclable materials, nor does this chapter change or limit
13 the authority of a city or town to provide the service itself or by
14 contract under RCW 81.77.020.

15 NEW SECTION. **Sec. 21.** Nothing in this chapter applies to
16 hospitals licensed under chapter 70.41 RCW, whose pharmaceutical wastes
17 are disposed of under rules and policies adopted by the department of
18 ecology.

19 NEW SECTION. **Sec. 22.** Sections 1 through 16, 20, and 21 of this
20 act constitute a new chapter in Title 70 RCW.

21 NEW SECTION. **Sec. 23.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 24.** This act must be liberally construed to
26 carry out its purposes and objectives.

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