
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-4578.3/02 3rd draft

ATTY/TYPIST: ML:seg

BRIEF DESCRIPTION:

2 **ESSB 6368** - H COMM AMD
3 By Committee on Health Care

4

5 Strike everything after the enacting clause and insert the
6 following:

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 develop a comprehensive
17 prescription drug education and utilization system in Washington state
18 that will ensure best prescribing practices and pharmaceutical use,
19 reduce administrative burdens on providers, increase consumer
20 understanding of and compliance with appropriate use of prescription
21 drugs, help to control increases in consumer and state health care
22 spending, and improve prescription drug purchasing through a sound
23 evidence-based process that evaluates the therapeutic value and cost-
24 effectiveness of prescription drugs.

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

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

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

31 (2) "State purchased health care" or "health care" means medical
32 and health care, pharmaceuticals, and medical equipment purchased with
33 state and federal funds by the department of social and health
34 services, the department of health, the basic health plan, the state
35 health care authority, the department of labor and industries, the

1 department of corrections, the department of veterans affairs, and
2 local school districts.

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

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

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

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

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

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

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

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

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

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

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

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

18 (12) "Plan year" means the time period established by the
19 authority.

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

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

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

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

25 and who are at least age fifty-five and have at least ten years of
26 service under the teachers' retirement system plan 3 as defined in RCW
27 41.32.010(40), the Washington school employees' retirement system plan
28 3 as defined in RCW 41.35.010, or the public employees' retirement
29 system plan 3 as defined in RCW 41.40.010.

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

36 (15) "Preferred drug" means the drug or drugs of choice within a
37 selected therapeutic class, as determined by the process established in
38 section 3 of this act.

1 (16) "Prior authorization" means a process requiring the prescriber
2 or the dispenser to verify with an agency participating in the
3 preferred drug program or its contractor that the proposed medical use
4 of a particular medicine for a patient meets predetermined criteria for
5 payment by the program.

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

8 The administrator, in concert with other state agencies involved in
9 state purchased health care, must begin implementation of a preferred
10 drug program by January 1, 2003. The preferred drug program is
11 initially limited to fee-for-service prescription drug purchasing
12 through medical assistance programs under chapter 74.09 RCW, the
13 uniform medical plan under this chapter, and other state purchased
14 health care programs. The administrator must include bulk purchased
15 prescription drugs in the preferred drug program according to a
16 timetable of the administrator's choosing. The preferred drug program
17 shall not be applied to health care purchased through managed care
18 contracts with carriers for state purchased health care programs. In
19 implementing the preferred drug program, the administrator may adopt
20 rules, and must:

21 (1) Use a nationally recognized listing of therapeutic classes of
22 drugs, such as those published by first databank or the American
23 society of health system pharmacists, to place drugs into therapeutic
24 classes;

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

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

30 (a) Antipsychotics;

31 (b) Chemotherapy;

32 (c) Antiretroviral drugs;

33 (d) Immunosuppressants; and

34 (e) Hypoglycemia rescue agents;

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

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

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

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

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

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

25 (e) Thoroughly evaluating the benefits, risks, and potential
26 outcomes for patients, including adverse drug events. To expedite
27 development of the preferred drug list, the administrator, the
28 independent entity chosen under this subsection, and the pharmacy and
29 therapeutics committee must make maximum use of sound evidence-based
30 prescription drug reviews that have been completed by independent
31 experts, giving consideration to the needs and characteristics of
32 populations, including racial and ethnic minorities, served by state
33 purchased health care programs;

34 (5) Submit the determinations made under subsection (4) of this
35 section to the pharmacy and therapeutics committee established in
36 section 5 of this act, which must incorporate them into recommendations
37 to the administrator as provided in section 5 of this act;

38 (6) Develop a preferred drug list based on the recommendations of
39 the pharmacy and therapeutics committee. For each therapeutic class

1 considered, the list must identify the drugs determined to be
2 essentially equal and, from among those, which ones are the preferred
3 drugs. If a particular class of drugs will be used in a disease
4 management program developed under section 12 of this act, an effort
5 shall be made to ensure that the preferred drugs in that class are
6 consistent with protocols or algorithms used in the disease management
7 program. The pharmacy and therapeutics committee or the administrator
8 will revise the preferred drug list annually or as needed, to be
9 determined by new drug approvals, recalls, or new scientific evidence
10 that may change a given drug's status or use, or as necessary to meet
11 the objectives of this act. Each state agency that purchases or
12 provides health care services must adopt the preferred drug list
13 consistent with the scope of benefits offered through programs
14 administered by that agency;

15 (7) Directly or through interagency agreement, distribute the
16 initial preferred drug list, and any subsequent revisions, to every
17 provider with prescriptive authority with whom an agency has a core
18 provider agreement, including with it a description of how the list was
19 developed, how it will be used, and requesting his or her endorsement;

20 (8) Ensure that a prescriber who does not endorse the list must do
21 so in writing to the administrator and is subject to prior
22 authorization as provided in section 6(2) of this act;

23 (9) Require any pharmacist filling a prescription under the
24 preferred drug program established under section 3 or 10 of this act
25 from a prescriber who has endorsed the preferred drug list to
26 substitute a preferred drug for any nonpreferred drug in a given
27 therapeutic category, unless the prescriber has indicated on the
28 prescription that the nonpreferred drug must be dispensed as written,
29 in which case the pharmacist must dispense the nonpreferred drug as
30 written. When a substitution is made, or a preferred drug within a
31 therapeutic class changes, the prescriber will be notified in writing
32 by the dispensing pharmacist of the specific drug and dose dispensed;

33 (10) The administrator must either provide each pharmacy with a
34 listing of the prescribers who have endorsed the preferred drug list or
35 include that information in the electronic claim adjudication system of
36 each state drug purchasing program so that the pharmacist may easily
37 determine when substitution of a preferred drug has been authorized.

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

3 To complement the preferred drug program established in section 3
4 of this act, the administrator must, in concert with state agencies
5 involved in state purchased health care:

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

10 (2) By July 1, 2004, use electronic drug claims processing and
11 information retrieval systems to analyze pharmacy and medical claims to
12 identify those prescribers who request that prescriptions for
13 nonpreferred drugs be dispensed as written on a more frequent basis
14 than their peers. In consultation with the Washington state medical
15 association and other prescriber organizations, the administrator must
16 develop strategies to provide early educational information to the
17 identified prescribers as needed to improve prescribing practices and
18 prescription drug utilization. If a substantial number of prescribers
19 in a peer group are frequently prescribing nonpreferred drugs in one or
20 more therapeutic class, the administrator must provide the pharmacy and
21 therapeutics committee created under section 5 of this act with
22 information on these prescribing patterns to enable the committee to
23 review their recommendations related to affected therapeutic classes;

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

28 (4) Appoint an advisory committee of prescribers and consumers to
29 provide input on the design and implementation of the education and
30 outreach programs authorized under this section. The advisory
31 committee shall contain at least three consumers representing
32 individuals with a chronic disease, the elderly, and racial or ethnic
33 minorities.

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

36 (1) A pharmacy and therapeutics committee is established to assist
37 the administrator, and other agencies involved in state purchased

1 health care, in the development and implementation of a preferred drug
2 program.

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

5 (a) Four physicians licensed under chapter 18.57 or 18.71 RCW in
6 this state and actively engaged in the practice of medicine, at least
7 one of whom is employed by a carrier as defined in RCW 48.43.005,
8 chosen from a list of nominees provided by the Washington state medical
9 association, and at least one of whom must have significant experience
10 in serving racial and ethnic minority communities;

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

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

17 (d) One person with background experience, education, or expertise
18 in pharmacoconomics.

19 (3) No member of the committee may be employed by a pharmaceutical
20 manufacturer, or be employed by any agency administering "state
21 purchased health care," as defined in RCW 41.05.011. As a condition of
22 appointment to the committee, each member must disclose any potential
23 conflict of interest, including receipt of any remuneration, grants, or
24 other compensation from a pharmaceutical manufacturer.

25 (4) Committee members serve staggered three-year terms. Of the
26 initial members, one physician, the advanced registered nurse
27 practitioner, and one pharmacist must each be appointed for two-year
28 terms, and one physician and one pharmacist must each be appointed for
29 one-year terms. The remaining committee members must be appointed for
30 three-year terms. Members may be reappointed for a period not to
31 exceed two three-year terms. Vacancies on the committee must be filled
32 for the balance of the unexpired term from nominee lists for the
33 appropriate committee category as provided under subsection (2) of this
34 section.

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

37 (6) The administrator must enter into a confidentiality agreement
38 with any private contractor or state employee who has access to
39 proprietary or confidential nonpublished data that is in the custody of

1 the pharmacy and therapeutics committee established under this section.
2 The failure of any contractor to adhere to the terms of the
3 confidentiality agreement is grounds for termination of the contract by
4 the administrator. Unauthorized disclosure of proprietary or
5 confidential nonpublished data by any contractor or their employee, or
6 by any employee of a state agency, is punishable as a class C felony.

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

10 (8) The members of the committee are immune from civil liability
11 for any official acts performed in good faith as members of the
12 committee.

13 (9) The committee must:

14 (a) Recommend to the administrator, and other agencies involved in
15 state purchased health care, which drugs should be identified as
16 preferred drugs from among those determined, pursuant to section 3(4)
17 of this act, to be essentially equal in terms of safety, efficacy, and
18 outcomes. In updating the preferred drug list, the pharmacy and
19 therapeutics committee shall complete its review and submit
20 recommendations to the administrator within one hundred twenty days
21 from the date of receipt of the dossier under section 3 of this act.
22 In making these recommendations, the committee must consider, among
23 other factors, the relative cost-effectiveness of the drugs being
24 considered, and the impact of each drug on the state's overall health
25 care expenditures.

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

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

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

34 The administrator must design, in concert with state agencies
35 involved in state purchased fee-for-service health care, a uniform drug
36 utilization review program for state purchased health care that meets
37 the requirement of Title XIX of the social security act. Each state
38 agency that purchases or provides health care services must adopt the

1 uniform drug utilization review program for its fee-for-service
2 purchasing consistent with the scope of benefits offered through
3 programs administered by that agency, and may implement it directly or
4 by contract or interagency agreement. The program must include but is
5 not limited to prescription drug review, management, and education,
6 including prospective, concurrent, and retrospective review. The
7 program shall improve the quality of pharmaceutical care by ensuring
8 that prescription drugs provided through state purchased fee-for-
9 service health care programs advance quality clinical outcomes and are
10 appropriate, medically necessary, and not likely to produce adverse
11 medical results. Drugs exempted from the preferred drug list under
12 section 3(3) of this act may be included in the drug utilization review
13 program. The program also must identify clients utilizing large
14 numbers of prescription drugs, and develop strategies to enhance
15 coordination of care for these individuals.

16 (1) The administrator shall establish a drug utilization review
17 committee either directly or through a contract with a private
18 organization to assist in development and implementation of the drug
19 utilization review program. The committee must be composed primarily
20 of actively practicing health care professionals licensed to practice
21 in the state of Washington and must include at least one person
22 representing consumers of state purchased health care. Additional
23 specialty expertise must be obtained as needed. Employees of agencies
24 that purchase health services cannot be a member of the drug
25 utilization review committee but will provide staff support to the
26 committee. Upon establishment of the committee, the department of
27 social and health services shall disband the drug utilization review
28 committee under the medical assistance administration.

29 (2) The administrator and state purchased health care programs may
30 use prior authorization as a means of concurrent drug utilization
31 review.

32 (a) Upon incorporation of a therapeutic class into the preferred
33 drug list, existing prior authorization procedures applicable to that
34 therapeutic class shall cease, and the prior authorization provisions
35 of this section shall apply.

36 (b) A drug in a class that has been reviewed for the preferred drug
37 list established under section 3 of this act may be subject to prior
38 authorization in only limited circumstances, based upon factors such as
39 the relative cost-effectiveness of the drug, and whether the drug has

1 a narrow therapeutic indication, presents a risk of inappropriate
2 utilization, or poses significant safety concerns. Consideration of
3 the cost-effectiveness of a drug cannot be based solely upon the price
4 of the drug itself.

5 (c) A drug newly approved by the federal food and drug
6 administration that has not yet been reviewed under section 3 of this
7 act may be subject to prior authorization only where clinically
8 indicated to avoid health risks to patients. Drugs identified in
9 section 3(3) of this act may be subject to prior authorization where
10 clinically indicated.

11 (d) Any prior authorization process must include clear standards
12 and procedures for a process to ensure consumer access to medically
13 necessary drugs. No preferred drug list can account for every
14 therapeutic eventuality or unique patient need. Prior authorization
15 procedures must neither pose a substantial barrier to the prescribing
16 health care professional nor hinder the consumer's ability to receive
17 necessary medication in a safe and timely manner. A prior
18 authorization program must provide for: (i) A response within twenty-
19 four hours after receipt of a request for prior authorization; and (ii)
20 the dispensing of at least a seventy-two hour supply of the requested
21 drug in an emergency situation.

22 (e) A prescriber who does not endorse the preferred drug list is
23 subject to a broader scope of prior authorization as determined by the
24 agency administering a state purchased health care program.

25 (3) Nothing in chapter 42.30 RCW prevents the drug utilization
26 review committee from holding an executive session during a regular or
27 special meeting of the committee to review and discuss proprietary or
28 confidential nonpublished data that relates to development or
29 implementation of the drug utilization review program.

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

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

4 **Sec. 7.** RCW 42.30.110 and 2001 c 216 s 1 are each amended to read
5 as follows:

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

9 (a) To consider matters affecting national security;

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

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

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

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

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

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

37 (h) To evaluate the qualifications of a candidate for appointment
38 to elective office. However, any interview of such candidate and final

1 action appointing a candidate to elective office shall be in a meeting
2 open to the public;

3 (i) To discuss with legal counsel representing the agency matters
4 relating to agency enforcement actions, or to discuss with legal
5 counsel representing the agency litigation or potential litigation to
6 which the agency, the governing body, or a member acting in an official
7 capacity is, or is likely to become, a party, when public knowledge
8 regarding the discussion is likely to result in an adverse legal or
9 financial consequence to the agency.

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

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

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

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

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

31 (k) To consider, in the case of the state investment board,
32 financial and commercial information when the information relates to
33 the investment of public trust or retirement funds and when public
34 knowledge regarding the discussion would result in loss to such funds
35 or in private loss to the providers of this information;

36 (l) To consider, in the case of the pharmacy and therapeutics
37 committee established in section 5 of this act or the drug utilization
38 review committee established in section 6 of this act, proprietary or
39 confidential nonpublished information that relates to the development

1 or revision of the preferred drug list, the designation of a drug for
2 prior authorization, or the conduct of the drug utilization review
3 program.

4 (2) Before convening in executive session, the presiding officer of
5 a governing body shall publicly announce the purpose for excluding the
6 public from the meeting place, and the time when the executive session
7 will be concluded. The executive session may be extended to a stated
8 later time by announcement of the presiding officer.

9 **Sec. 8.** RCW 41.05.026 and 1991 c 79 s 1 are each amended to read
10 as follows:

11 (1) When soliciting proposals for the purpose of awarding contracts
12 for goods or services, the administrator shall, upon written request by
13 the bidder, exempt from public inspection and copying such proprietary
14 data, trade secrets, or other information contained in the bidder's
15 proposal that relate to the bidder's unique methods of conducting
16 business or of determining prices or premium rates to be charged for
17 services under terms of the proposal.

18 (2) Actuarial formulas, statistics, cost and utilization data, or
19 other proprietary information submitted upon request of the
20 administrator or board by a contracting insurer, health care service
21 contractor, health maintenance organization, or vendor may be withheld
22 at any time from public inspection when necessary to preserve trade
23 secrets or prevent unfair competition.

24 (3) Proprietary information submitted upon request of the
25 administrator or the pharmacy and therapeutics committee established
26 under section 5 of this act by any vendor or pharmaceutical
27 manufacturer for the purpose of analyzing and developing prescription
28 drug education and utilization systems, a preferred drug list, a drug
29 utilization review program, and consolidated prescription drug
30 purchasing for state purchased health care programs may be withheld at
31 any time from public inspection when necessary to preserve trade
32 secrets or prevent unfair competition.

33 (4) The board, the pharmacy and therapeutics committee established
34 in section 5 of this act, or the drug utilization review committee
35 established in section 6 of this act may hold an executive session in
36 accordance with chapter 42.30 RCW during any regular or special meeting
37 to discuss information submitted in accordance with subsection (1)
38 ((or)), (2), or (3) of this section.

1 (5) A person who challenges a request for or designation of
2 information as exempt under this section is entitled to seek judicial
3 review pursuant to chapter 42.17 RCW.

4 **Sec. 9.** RCW 42.17.310 and 2001 c 278 s 1, 2001 c 98 s 2, and 2001
5 c 70 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

37 (g) Except as provided by chapter 8.26 RCW, the contents of real
38 estate appraisals, made for or by any agency relative to the

1 acquisition or sale of property, until the project or prospective sale
2 is abandoned or until such time as all of the property has been
3 acquired or the property to which the sale appraisal relates is sold,
4 but in no event shall disclosure be denied for more than three years
5 after the appraisal.

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

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

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

18 (k) Records, maps, or other information identifying the location of
19 archaeological sites in order to avoid the looting or depredation of
20 such sites.

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

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

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

33 (o) Financial and commercial information and records supplied by
34 private persons pertaining to export services provided pursuant to
35 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
36 export projects pursuant to RCW 43.23.035.

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

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

4 (r) Financial and commercial information and records supplied by
5 businesses or individuals during application for loans or program
6 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
7 or during application for economic development loans or program
8 services provided by any local agency.

9 (s) Membership lists or lists of members or owners of interests of
10 units in timeshare projects, subdivisions, camping resorts,
11 condominiums, land developments, or common-interest communities
12 affiliated with such projects, regulated by the department of
13 licensing, in the files or possession of the department.

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

17 (u) The residential addresses or residential telephone numbers of
18 employees or volunteers of a public agency which are held by any public
19 agency in personnel records, public employment related records, or
20 volunteer rosters, or are included in any mailing list of employees or
21 volunteers of any public agency.

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

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

1 and business telephone number. On or after January 1, 1995, the
2 current residential address and residential telephone number of a
3 health care provider governed under RCW 18.130.040 maintained in the
4 files of the department shall automatically be withheld from public
5 inspection and copying unless the provider specifically requests the
6 information be released, and except as provided for under RCW
7 42.17.260(9).

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

10 (y) Information obtained by the board of pharmacy or the department
11 of health and its representatives as provided in RCW 69.41.044,
12 69.41.280, and 18.64.420.

13 (z) Financial information, business plans, examination reports, and
14 any information produced or obtained in evaluating or examining a
15 business and industrial development corporation organized or seeking
16 certification under chapter 31.24 RCW.

17 (aa) Financial and commercial information supplied to the state
18 investment board by any person when the information relates to the
19 investment of public trust or retirement funds and when disclosure
20 would result in loss to such funds or in private loss to the providers
21 of this information.

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

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

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

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

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

38 (gg) Financial, commercial, operations, and technical and research
39 information and data submitted to or obtained by the clean Washington

1 center in applications for, or delivery of, program services under
2 chapter 70.95H RCW.

3 (hh) Information and documents created specifically for, and
4 collected and maintained by a quality improvement committee pursuant to
5 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
6 4.24.250, regardless of which agency is in possession of the
7 information and documents.

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

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

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

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

23 (mm) The personally identifying information of current or former
24 participants or applicants in a paratransit or other transit service
25 operated for the benefit of persons with disabilities or elderly
26 persons.

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

37 (oo) Proprietary financial and commercial information that the
38 submitting entity, with review by the department of health,
39 specifically identifies at the time it is submitted and that is

1 provided to or obtained by the department of health in connection with
2 an application for, or the supervision of, an antitrust exemption
3 sought by the submitting entity under RCW 43.72.310. If a request for
4 such information is received, the submitting entity must be notified of
5 the request. Within ten business days of receipt of the notice, the
6 submitting entity shall provide a written statement of the continuing
7 need for confidentiality, which shall be provided to the requester.
8 Upon receipt of such notice, the department of health shall continue to
9 treat information designated under this section as exempt from
10 disclosure. If the requester initiates an action to compel disclosure
11 under this chapter, the submitting entity must be joined as a party to
12 demonstrate the continuing need for confidentiality.

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

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

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

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

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

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

1 (vv) Individually identifiable information received by the work
2 force training and education coordinating board for research or
3 evaluation purposes.

4 (ww) Those portions of records containing specific and unique
5 vulnerability assessments or specific and unique response plans, either
6 of which is intended to prevent or mitigate criminal terrorist acts as
7 defined in RCW 70.74.285, the public disclosure of which would have a
8 substantial likelihood of threatening public safety.

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

16 (yy) Sensitive wildlife data obtained by the department of fish and
17 wildlife. However, sensitive wildlife data may be released to
18 government agencies concerned with the management of fish and wildlife
19 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

33 (zz) The personally identifying information of persons who acquire
34 recreational licenses under RCW 77.32.010 or commercial licenses under
35 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
36 department, and type of license, endorsement, or tag. However, the
37 department of fish and wildlife may disclose personally identifying
38 information to:

1 (i) Government agencies concerned with the management of fish and
2 wildlife resources;

3 (ii) The department of social and health services, child support
4 division, and to the department of licensing in order to implement RCW
5 77.32.014 and 46.20.291; and

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

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

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

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

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

28 NEW SECTION. Sec. 10. A new section is added to chapter 41.05 RCW
29 to read as follows:

30 (1) The administrator is authorized to engage in consolidated
31 prescription drug purchasing. The authority granted the administrator
32 by this section shall be liberally construed to achieve the purposes of
33 this act.

34 (2) Within one year following initial adoption of the preferred
35 drug list for state purchased health care, units of local government,
36 private entities, and individuals who lack prescription drug coverage
37 must be offered an opportunity to participate on a purely voluntary
38 basis in the purchasing cooperative resulting from adoption of the

1 preferred drug list. The administrator may charge reasonable
2 administrative fees to units of local government and private entities
3 who choose to participate in the purchasing cooperative.

4 (3) For purposes of this section, "voluntary participation" for
5 individuals who lack prescription drug coverage means that, following
6 payment of a reasonable annual enrollment fee, these individuals can
7 benefit from any price discounts obtained from prescription drug
8 manufacturers through adoption of the preferred drug list. The
9 administrator must develop mechanisms to ensure that pharmacies filling
10 prescriptions for individuals participating voluntarily in the
11 purchasing cooperative recover any discounts given to these individuals
12 through their participation in the cooperative.

13 (4) The administrator shall establish an advisory committee
14 representing units of local government, organized labor, private
15 entities, retail pharmacists, and consumers to develop an
16 implementation plan for the opportunity to participate as authorized by
17 this section. The advisory committee shall submit an implementation
18 plan to the appropriate committees of the senate and house of
19 representatives by September 15, 2003.

20 NEW SECTION. Sec. 11. A new section is added to chapter 41.05 RCW
21 to read as follows:

22 The consolidated prescription drug purchasing account is created in
23 the custody of the state treasurer. All receipts from the fees from
24 the preferred drug purchasing cooperative created in section 10 of this
25 act must be deposited into the account. Expenditures from the account
26 may be used only for the purposes of this act. Only the administrator
27 or the administrator's designee may authorize expenditures from the
28 account. The account is subject to allotment procedures under chapter
29 43.88 RCW, but an appropriation is not required for expenditures.

30 NEW SECTION. Sec. 12. A new section is added to chapter 41.05 RCW
31 to read as follows:

32 The administrator, in concert with agencies involved in state
33 purchased health care, must implement at least two disease management
34 programs for persons covered through state purchased fee for service
35 health care programs or served in state operated facilities. The
36 programs must begin operation by July 1, 2003.

1 (1) The administrator, in concert with agencies involved in state
2 purchased health care, must determine the disease groups most
3 appropriate for disease management and the state purchased health care
4 programs to which the disease management programs will apply, after
5 reviewing claims and cost information and research on the effectiveness
6 of disease management programs. The following disease groups should
7 first be considered for disease management programs: Asthma, diabetes,
8 cardiovascular disease, malignancies, mental disorders, obesity,
9 hemophilia, renal disease, transplants, intervertebral disc disorders,
10 and populations at highest risk of improper use of medication.

11 (2) Each disease management program must include physicians,
12 pharmacists, and other appropriate health care providers in the design
13 and implementation of the program. Drug classes exempted under section
14 3(3) of this act must be integrated into disease management programs as
15 appropriate. Providers may not be required to participate in a disease
16 management program as a condition of contracting to provide state
17 purchased health care services.

18 (3) The programs must incorporate an evaluation component that
19 allows the administrator to identify successful programs that are
20 candidates for statewide expansion. The evaluation should consider the
21 impact of the disease management program upon the health status of
22 participating enrollees, the use of health services by these enrollees,
23 the impact on the state's overall health care expenditures, the
24 coverage of comorbidities associated with the selected disease group,
25 and the overall costs of treating these enrollees.

26 (4) In addition to the programs established under this section, the
27 administrator and the secretary of the department of social and health
28 services shall consider means to promote awareness of antibiotic
29 resistance among individuals and health care providers who participate
30 in state health care programs.

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

33 The administrator may solicit and accept grants or other funds from
34 public and private sources to support consumer and provider education,
35 disease management programs, and other related activities under this
36 act. Any grants or funds received may be used to enhance these
37 activities as long as program standards established by the
38 administrator are maintained.

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

3 Any savings to health care benefit programs administered by the
4 public employees' benefits board that result from implementation of the
5 prescription drug education and utilization system under this act must
6 be deposited into the public employees' and retirees' insurance account
7 established under RCW 41.05.120. In developing its annual budget
8 proposal for public employee health benefits, the administrator must
9 consider the extent to which implementation of the preferred drug
10 program has moderated increases in public employee health benefit costs
11 and attempt to reflect that moderation in employee cost-sharing.

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

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

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

36 (3) By January 1, 2003, the secretary of the department of social
37 and health services shall submit to the governor and the health care
38 and fiscal committees of the legislature a report on implementation and

1 operation of the therapeutic consultation program. The report must
2 include, at a minimum, a description of the impact of the program on
3 medical assistance clients and providers and any cost savings
4 associated with the program, and when the program should be
5 discontinued, in whole or in part.

6 NEW SECTION. **Sec. 16.** A new section is added to chapter 41.05 RCW
7 to read as follows:

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

11 (1) The evaluation shall assess:

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

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

17 (c) The extent to which the program has lessened administrative
18 burdens on health care providers participating in state purchased
19 health care programs;

20 (d) The impact of the program on prescription drug expenditures
21 across state purchased health care programs;

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

25 (2) The administrator may include the evaluation of disease
26 management programs required under section 12 of this act in the
27 evaluation under this section.

28 (3) The administrator shall make every effort to pursue and obtain
29 federal or private foundation funding for the evaluation from entities
30 such as the federal agency for health care research and quality or the
31 milbank memorial fund. To ensure that results of the evaluation are
32 objective and unbiased, private foundation funds derived from the
33 pharmaceutical industry may not be used to fund the evaluation.

34 (4) The results of the evaluation shall be submitted to the
35 governor and legislature by January 1, 2006.

36 NEW SECTION. **Sec. 17.** A new section is added to chapter 69.41 RCW
37 to read as follows:

1 Any pharmacist filling a prescription under the preferred drug list
2 program established under section 3 of this act or under section 10 of
3 this act from a prescriber who has endorsed the preferred drug list
4 must substitute the preferred drug for any nonpreferred drug in a given
5 therapeutic category, unless the prescriber has indicated on the
6 prescription that the nonpreferred drug must be dispensed as written,
7 in which case the pharmacist must dispense the nonpreferred drug as
8 written. When a substitution is made, or a preferred drug within a
9 therapeutic class changes, the prescriber will be notified in writing
10 by the dispensing pharmacist of the specific drug and dose dispensed.

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

13 Nothing in this act preempts state-owned or managed hospitals
14 licensed under chapter 70.41 RCW from aggregate purchasing through
15 other programs. These hospitals may choose to participate in the
16 preferred drug program under section 3 of this act if drugs can be
17 obtained at lower cost.

18 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.60A
19 RCW to read as follows:

20 Nothing in this act preempts state-owned facilities and programs
21 operated by the department of veterans affairs from aggregate
22 purchasing through other programs. The department may choose to
23 participate in the preferred drug program under section 3 of this act
24 if drugs can be obtained at lower cost.

25 NEW SECTION. **Sec. 20.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 21.** If any part of this act is found to be in
30 conflict with federal requirements that are a prescribed condition to
31 the allocation of federal funds to the state, the conflicting part of
32 this act is inoperative solely to the extent of the conflict and with
33 respect to the agencies directly affected, and this finding does not
34 affect the operation of the remainder of this act in its application to
35 the agencies concerned. Rules adopted under this act must meet federal

1 requirements that are a necessary condition to the receipt of federal
2 funds by the state.

3 NEW SECTION. **Sec. 22.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and takes effect
6 immediately.

7 NEW SECTION. **Sec. 23.** If specific funding for the purposes of
8 this act, referencing this act by bill or chapter number, is not
9 provided by June 30, 2002, in the omnibus appropriations act, this act
10 is null and void."

11 **ESSB 6368** - H COMM AMD
12 By Committee on Health Care

13

14 On page 1, line 2 of the title, after "system;" strike the
15 remainder of the title and insert "amending RCW 41.05.011, 42.30.110,
16 and 41.05.026; reenacting and amending RCW 42.17.310; adding new
17 sections to chapter 41.05 RCW; adding a new section to chapter 69.41
18 RCW; adding a new section to chapter 43.60A RCW; creating new sections;
19 prescribing penalties; and declaring an emergency."

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