S-3495.1

SENATE BILL 6368

State of Washington 57th Legislature 2002 Regular Session

By Senators Thibaudeau, Deccio and Winsley

Read first time 01/16/2002. Referred to Committee on Health & Long-Term Care.

AN ACT Relating to development of a prescription drug education and utilization system; amending RCW 74.09.010, 41.05.011, 42.30.110, and 41.05.026; adding new sections to chapter 41.05 RCW; adding a new section to chapter 74.09 RCW; adding a new section to chapter 43.70 RCW; adding a new section to chapter 72.09 RCW; adding a new section to chapter 43.60A RCW; creating a new section; prescribing penalties; providing an effective date; and declaring an emergency.

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

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

(2) It is the intent of the legislature to develop a comprehensive prescription drug education and utilization system in Washington state

that will improve prescription drug prescribing practices, increase consumer understanding of and compliance with appropriate use of prescription drugs, and improve prescription drug purchasing through a sound evidence-based process that evaluates the therapeutic value and cost-effectiveness of prescription drugs.

Sec. 2. RCW 74.09.010 and 1990 c 296 s 6 are each amended to read as follows:

((~~As used in this chapter:~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Children's health program" means the health care services program provided to children under eighteen years of age and in households with incomes at or below the federal poverty level as annually defined by the federal department of health and human services as adjusted for family size, and who are not otherwise eligible for medical assistance or the limited casualty program for the medically needy.

(2) "Committee" means the ((~~children's health services~~)) pharmacy and therapeutics committee ((~~created in section 3 of this act~~)).

(3) "County" means the board of county commissioners, county council, county executive, or tribal jurisdiction, or its designee. A combination of two or more county authorities or tribal jurisdictions may enter into joint agreements to fulfill the requirements of RCW 74.09.415 through 74.09.435.

(4) "Department" means the department of social and health services.

(5) "Department of health" means the Washington state department of health created pursuant to RCW 43.70.020.

(6) "Internal management" means the administration of medical assistance, medical care services, the children's health program, and the limited casualty program.

(7) "Limited casualty program" means the medical care program provided to medically needy persons as defined under Title XIX of the federal social security act, and to medically indigent persons who are without income or resources sufficient to secure necessary medical services.

(8) "Medical assistance" means the federal aid medical care program provided to categorically needy persons as defined under Title XIX of the federal social security act.

(9) "Medical care services" means the limited scope of care financed by state funds and provided to general assistance recipients, and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW.

(10) "Nursing home" means nursing home as defined in RCW 18.51.010.

(11) "Poverty" means the federal poverty level determined annually by the United States department of health and human services, or successor agency.

(12) "Preferred drug" means the department's drug of choice within a selected therapeutic class, as determined by the process established in section 4 of this act.

(13) "Prior authorization" means a process requiring the prescriber or the dispenser to verify with the state medicaid agency or its contractor that the proposed medical use of a particular medicine for a patient meets predetermined criteria for payment by the program.

(14) "Secretary" means the secretary of social and health services.

(15) "Therapeutic class" means a group of drugs used for the treatment, remediation, or cure of a specific order or disease.

Sec. 3. RCW 41.05.011 and 2001 c 165 s 2 are each amended to read as follows:

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

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

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

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

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

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the

amount of employee contributions from among a range of choices offered by the authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) "Preferred drug" means the authority's drug of choice within a selected therapeutic class, as determined by the process established in section 4 of this act.

(16) "Prior authorization" means a process requiring the prescriber or the dispenser to verify with the authority or its contractor that the proposed medical use of a particular medicine for a patient meets predetermined criteria for payment by the program.

(17) "Therapeutic class" means a group of drugs used for the treatment, remediation, or cure of a specific order or disease.

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

The administrator, in concert with other state agencies involved in state purchased health care, must begin implementation of a preferred drug program by January 1, 2003. In so doing, the administrator may adopt rules, and must:

(1) Identify for initial consideration those classes of drugs for which agencies have substantial annual aggregate expenditures.

(2) Exempt the following drug classes from inclusion on any preferred drug list:

(a) Antipsychotics;

(b) Chemotherapy;

(c) Contraceptives;

(d) Antiretroviral drugs;

(e) Immunosuppressants; and

(f) Hypoglycemia rescue agents;

(3) Contract with one or more qualified entities to determine which drugs within each of the identified therapeutic classes are essentially equal in terms of safety and efficacy. Upon request of the authority, manufacturers must submit dossier reports containing clinical and economic data utilizing the American managed care pharmacy format for preferred drug list submissions. The authority must provide the dossier to the contracted entity, who will base its determinations on the strength of scientific evidence and standards of practice that include, but are not limited to:

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

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

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

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

(e) Thoroughly evaluating the benefits, risks, and potential outcomes for patients, including adverse drug events;

(4) Submit the determinations made under subsection (3) of this section to the pharmacy and therapeutics committee established in section 12 of this act, which must incorporate them into

recommendations to the administrator as provided in section 12 of this act;

(5) Develop a preferred drug list based on the recommendations of the pharmacy and therapeutics committee. For each therapeutic class considered, the list must identify the drugs determined to be essentially equal and, from among those, which one is the preferred drug. The administrator may revise the preferred drug list annually, as necessary to meet the objectives of this act, pursuant to the same process used in the development of the initial list. Each state agency that purchases or provides health care services must adopt the preferred drug list consistent with the scope of benefits offered through programs administered by that agency;

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

(7) Ensure that a provider who does not endorse the list must do so in writing to the administrator and is subject to prior authorization as provided in sections 5 through 9 of this act;

(8) Require any pharmacist filling a prescription for a client of state-purchased health care from a provider who has endorsed the preferred drug list to substitute the preferred drug for any nonpreferred drug in a given therapeutic category, unless the prescriber has indicated on the prescription that the drug must be dispensed as written, in which case the pharmacists must dispense the drug as written.

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

(1) The administrator may subject any drug in a class included in the preferred drug list established in section 4 of this act to prior authorization in only limited circumstances, such as when the drug is high cost, has a narrow therapeutic indication, presents a risk of inappropriate utilization, or poses safety concerns. A new drug that has not yet been reviewed under section 4 of this act may be subject to prior authorization. A prescriber who does not endorse the preferred drug list is subject to a broader scope of prior authorization as determined by the administrator.

(2) The administrator may subject drugs identified in section 4(2) of this act to prior authorization where clinically indicated.

NEW SECTION. **Sec. 6.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The department may subject any drug in a class included in section 4 of this act to prior authorization in only limited circumstances, such as when the drug is high cost, has a narrow therapeutic indication, presents a risk of inappropriate utilization, or poses safety concerns. A new drug that has not yet been reviewed under section 4 of this act may be subject to prior authorization. A prescriber who does not endorse the preferred drug list is subject to a broader scope of prior authorization as determined by the secretary.

(2) The department may subject drugs identified in section 4(2) of this act to prior authorization where clinically indicated

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The department may subject any drug in a class included in section 4 of this act to prior authorization in only limited circumstances, such as when the drug is high cost, has a narrow therapeutic indiction, presents a risk of inappropriate utilization, or poses safety concerns. A new drug that has not yet been reviewed under section 4 of this act may be subject to prior authorization. A prescriber who does not endorse the preferred drug list is subject to a broader scope of prior authorization as determined by the secretary.

(2) The department may subject drugs identified in section 4(2) of this act to prior authorization where clinically indicated.

NEW SECTION. **Sec. 8.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department may subject any drug in a class included in section 4 of this act to prior authorization in only limited circumstances, such as when the drug is high cost, has a narrow therapeutic indication, presents a risk of inappropriate utilization, or poses safety concerns. A new drug that has not yet been reviewed under section 4 of this act may be subject to prior authorization. A prescriber who does not endorse the preferred drug list is subject to a broader scope of prior authorization as determined by the secretary.

(2) The department may subject drugs identified in section 4(2) of this act to prior authorization where clinically indicated.

NEW SECTION. **Sec. 9.** A new section is added to chapter 43.60A RCW to read as follows:

(1) The department may subject any drug in a class included in section 4 of this act to prior authorization in only limited circumstances, such as when the drug is high cost, has a narrow therapeutic indication, presents a risk of inappropriate utilization, or poses safety concerns. A new drug that has not yet been reviewed under section 4 of this act may be subject to prior authorization. A prescriber who does not endorse the preferred drug list is subject to a broader scope of prior authorization as determined by the director.

(2) The department may subject drugs identified in section 4(2) of this act to prior authorization where clinically indicated.

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

Any prior approval process adopted pursuant to sections 5 through 9 of this act must include clear standards and procedures for a process to ensure consumer access to medically necessary nonpreferred drugs. No preferred drug list can account for every therapeutic eventuality or unique patient need. Prior approval procedures for nonpreferred drugs must neither pose a substantial barrier to the prescribing health care professional nor hinder the consumer's ability to receive necessary medication.

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

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

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

(2) By July 1, 2004, use mechanized drug claims processing and information retrieval systems to analyze medical claims to identify those providers who request that prescriptions for nonpreferred drugs

be dispensed as written on a more frequent basis than their peers, and provide information and education to those providers as needed; and

(3) Conduct a feasibility study of developing a system to periodically provide a complete drug profile of persons covered through state-purchased health care systems to each person's primary care provider. Such a system must fully comply with state and federal laws related to the privacy of health care information.

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

(1) A pharmacy and therapeutics committee is established to assist the administrator, and other agencies involved in state-purchased health care, in the development and implementation of a preferred drug program.

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

(a) Four physicians licensed in this state and actively engaged in the practice of medicine, at least one of whom is employed by a carrier as defined in RCW 48.43.005, chosen from a list of nominees provided by the Washington state medical association;

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

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

(d) One person with background experience, education, or expertise in pharmacoeconomics.

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

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

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

(6) The department shall provide staff support to the committee. Committee members serve without compensation but shall be reimbursed for expenses pursuant to RCW 43.03.050 and 43.03.060.

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

(8) The committee must:

(a) Recommend to the administrator, and other agencies involved in state-purchased health care, which drugs should be identified as preferred drugs from among those determined, pursuant to section 4(3) of this act, to be essentially equal in terms of safety and efficacy. In making these recommendations, the committee must consider, among other factors, the relative cost of the drugs being considered, the impact of each drug on the state's overall health care expenditures, and the efforts of each drug's manufacturer to ensure that all Washington residents have access to medically necessary medicines at an affordable price. The committee shall annually review the preferred drug list and recommend to the administrator any changes it deems appropriate to meet the objectives of this act;

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

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

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

The administrator must design, in concert with state agencies involved in state-purchased health care, a uniform drug utilization review program for state-purchased health care. Each state agency that purchases or provides health care services must adopt the uniform drug utilization review program and may implement it directly or by contract or interagency agreement. The program must include but is not limited to prescription drug review, management, and education, including prospective, concurrent, and retrospective review, to improve the quality of pharmaceutical care by ensuring that prescription drugs provided through state-purchased health care programs advance quality clinical outcomes and are appropriate, medically necessary, and not likely to produce adverse medical results.

(1) The administrator may establish a drug utilization review committee either directly or through a contract with a private organization to assist in development and implementation of the drug utilization review program. If the administrator chooses to form a drug utilization review committee, the administrator must appoint the members of the committee. The committee must be composed primarily of actively practicing health care professionals. Additional specialty expertise must be obtained as needed. Employees of agencies that purchase health services cannot be a member of the drug utilization review committee but will provide staff support to the committee.

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

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

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

Sec. 14. RCW 42.30.110 and 2001 c 216 s 1 are each amended to read as follows:

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

(a) To consider matters affecting national security;

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

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

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

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

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

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

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal

counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

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

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

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

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

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

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

(l) To consider, in the case of the pharmacy and therapeutics committee established in section 12 of this act, proprietary or confidential nonpublished information that relates to the development or revision of the preferred drug list or the designation of a drug for prior authorization.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session

will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

Sec. 15. RCW 41.05.026 and 1991 c 79 s 1 are each amended to read as follows:

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

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

(3) Notwithstanding any provision of chapter 42.17 RCW to the contrary, proprietary information submitted upon request of the administrator by any vendor or pharmaceutical manufacturer for the purpose of analyzing and developing prescription drug education and utilization systems, a preferred drug list, a drug utilization review program, and consolidated prescription drug purchasing for state-purchased health care programs may be withheld at any time from public inspection when necessary to preserve trade secrets or prevent unfair competition.

(4) The board, the pharmacy and therapeutics committee established in section 12 of this act, or the drug utilization review committee established in section 13 of this act may hold an executive session in accordance with chapter 42.30 RCW during any regular or special meeting to discuss information submitted in accordance with subsection (1) ((~~or~~)), (2), or (3) of this section.

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

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

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

(2) Within one year following initial adoption of the preferred drug list for state-purchased health care, units of local government, private entities, and individuals who lack or are underinsured for prescription drug coverage must be provided an opportunity to participate in the purchasing cooperative resulting from adoption of the preferred drug list.

(3) For purposes of this section, "participation" for individuals who lack or are underinsured for prescription drug coverage means that, following payment of a reasonable annual enrollment fee, these individuals can benefit from any price discounts obtained from prescription drug manufacturers through adoption of the preferred drug list. The administrator must develop a payment mechanism to ensure that pharmacies filling prescriptions for individuals participating in the purchasing cooperative are reimbursed for discounts given to these individuals from rebates or other payments received by the state from manufacturers.

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

The administrator, in concert with agencies involved in state-purchased health care, must design and implement at least two, but not more than five, pilot disease management programs for persons covered through state-purchased health care programs. The programs must begin operation by July 1, 2003.

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

(2) Each pilot disease management program must include physicians, pharmacists, and other appropriate health care providers in the design and implementation of the program. Providers may not be required to participate in a disease management program as a condition of contracting to provide state-purchased health care services.

(3) The programs must incorporate an evaluation component that allows the administrator to identify successful programs that are candidates for statewide expansion. The evaluation should consider the impact of the disease management program upon the health status of participating enrollees, the use of health services by these enrollees, the coverage of comorbidities associated with the selected disease group, and the overall costs of treating these enrollees.

(4) In addition to the pilot projects established under this section, the administrator and the secretary of the department of social and health services must give strong consideration to including participation in the alliance working for antibiotic resistance education project as a provision of managed care plan contracts for the public employees' benefits board, basic health plan, medical assistance, or children's health insurance programs for contract years beginning in calendar year 2003.

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

Any savings to health care benefit programs administered by the public employees' benefits board that result from implementation of the prescription drug education and utilization system under this act must be deposited into the public employees' and retirees' insurance account established under RCW 41.05.120.

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

(1) By January 1, 2003, the administrator must submit to the governor and the health care and fiscal committees of the legislature a progress report regarding the implementation of the prescription drug education and utilization system.

(2) Beginning January 1, 2003, and by January 1st of each year through 2005, the administrator must submit to the governor and the health care and fiscal committees of the legislature a report on the impacts of the prescription drug education and utilization system. The

report must address whether the activities under this act have succeeded in promoting improved clinical outcomes and cost-effective drug utilization and report specifically on the status and outcomes associated with the pilot disease management programs established under section 17 of this act. The report may present recommendations for modifications to the system, or for additional strategies that should be pursued to promote therapeutic and cost-effective utilization of prescription drugs by residents of the state of Washington.

(3) By January 1, 2003, the secretary of the department of social and health services shall submit to the governor and the health care and fiscal committees of the legislature a report on implementation of the therapeutic consultation program. The report must include, at a minimum, a description of the impact of the program on medical assistance clients and providers and any cost savings associated with the program, and recommendations as to whether the program should be discontinued, in whole or in part, upon implementation of the preferred drug list as provided in section 4 of this act.

NEW SECTION. **Sec. 20.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect May 1, 2002.

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