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HOUSE BILL 2694

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives Morrell and Conway

Read first time 01/15/08. Referred to Committee on Health Care & Wellness.

1            AN ACT Relating to educating prescribers and dispensers of  
2 prescription drugs regarding evidence-based treatment and the use of  
3 generic drugs; and adding a new chapter to Title 70 RCW.

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

5            NEW SECTION.    **Sec. 1.** The purpose of this chapter is to assure  
6 that persons or entities authorized to prescribe, dispense, or purchase  
7 prescription drugs in Washington use an evidence-based approach.

8            NEW SECTION.    **Sec. 2.** The legislature finds that:

9            (1) The state of Washington has an interest in maximizing the well-  
10 being of its residents and in containing health care costs;

11            (2) To further its legitimate interest in the well-being of its  
12 residents and containing health care costs, the state of Washington has  
13 shown, through numerous legislative and executive branch activities, a  
14 strong commitment to evidence-based care and cost-effective health  
15 purchasing. The commitment is demonstrated through establishment of  
16 the Washington evidence-based prescription drug program and the state  
17 preferred drug list under RCW 70.14.050, establishment of the  
18 prescription drug purchasing consortium under RCW 70.14.060, and both

1 generic and therapeutic drug substitution under chapter 69.41 RCW. The  
2 Washington state health technology assessment program, established  
3 under chapter 70.14 RCW, is applying the principles of evidence-based  
4 care and cost-effective purchasing to the review of medical devices and  
5 procedures for state-purchased health care programs. Finally, the  
6 state of Washington is an active participant in the Puget Sound health  
7 alliance, whose goal is to improve the quality and transparency of  
8 health services provided across the public and private sectors;

9 (3) In 2004, the pharmaceutical industry spent twenty-seven billion  
10 dollars marketing pharmaceuticals in the United States and spent more  
11 than any other sector in the United States on its sales force and media  
12 advertising. Pharmaceutical manufacturers spend twice as much on  
13 marketing as on research and development;

14 (4) Marketing programs are designed to increase sales, income, and  
15 profit. Frequently, progress toward these goals comes at the expense  
16 of evidence-based care and sometimes the health of individual patients;

17 (5) There is considerable evidence that pharmaceutical marketing  
18 campaigns lead doctors to prescribe drugs based on incomplete and  
19 biased information, particularly for prescribers who lack the time to  
20 perform substantive research assessing whether the messages they are  
21 receiving from pharmaceutical representatives are full and accurate;

22 (6) The federal food and drug administration requires marketing and  
23 advertising to be fair and balanced; however, the federal food and drug  
24 administration has limited legal ability to enforce this requirement;

25 (7) Newer drugs on the market do not necessarily provide additional  
26 benefits over older drugs but do add costs and as yet unknown side  
27 effects;

28 (8) Between 1975 and 2000, fifty percent of all drug withdrawals  
29 from the market and "black box warnings" were within the first two  
30 years of the release of the drug. One-fifth of all drugs are subject  
31 to "black box warnings" or withdrawal from the market because of  
32 serious public health concerns. Marketing that results in prescribers  
33 using the newest drugs also results in prescribing drugs that are more  
34 likely to be subject to these warnings and withdrawal;

35 (9) Nearly one-third of the five-fold increase in spending on drugs  
36 in the United States over the last decade can be attributed to  
37 marketing-induced shifts in doctors' prescribing from existing,

1 effective, and lower cost, often generic, therapies to new and more  
2 expensive treatments, which often have little or no evidence-based  
3 therapeutic value;

4 (10) Several studies suggest that drug samples clearly affect  
5 prescribing behavior in favor of the sample, and that the presence of  
6 drug samples may influence physicians to dispense or prescribe drugs  
7 that differ from their preferred drug source; and

8 (11) This act is necessary to promote the use of safe and  
9 clinically effective drugs, and to advance health care cost-containment  
10 efforts for the state, consumers, and businesses.

11 NEW SECTION. **Sec. 3.** The definitions in this section apply  
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Program" means the prescription drug professional education  
14 program.

15 (2) "Administrator" means the administrator of the authority.

16 (3) "Authority" means the health care authority.

17 (4) "State purchased health care" means the same as defined in RCW  
18 41.05.011.

19 NEW SECTION. **Sec. 4.** (1) By January 1, 2009, the authority shall  
20 establish the prescription drug professional education program to:

21 (a) Enhance the health of residents of the state;

22 (b) Promote evidence-based treatment;

23 (c) Encourage better communication between state agencies and  
24 health care practitioners participating in state purchased health care  
25 programs; and

26 (d) Reduce the health complications and unnecessary costs  
27 associated with nonevidence-based drug prescribing.

28 (2) The authority shall design the program with state agencies  
29 administering state purchased health care programs. In designing the  
30 program, the authority shall consult with national experts, prescribers  
31 and dispensers of drugs, carriers and health plans, hospitals, pharmacy  
32 benefit managers, and consumers.

33 (3) The program shall consist of outreach and education to  
34 prescribers and dispensers of drugs in the state and shall include  
35 evidence-based information, including the use of generic drugs as

1 demonstrated in the state's prescription drug purchasing consortium  
2 under RCW 70.14.060.

3 (4) The program shall provide information to prescribers through a  
4 variety of means, including written and web-based materials and  
5 personal visits.

6 (5) Where possible, the program shall share prescriber-specific  
7 data in a report card format that compares each prescriber's practice  
8 to evidence-based practice standards that promote safety and cost-  
9 effectiveness. Such data shall be confidential and made available only  
10 to the individual prescriber, unless the data is aggregated for  
11 reporting purposes.

12 (6) Starting January 10, 2009, and annually thereafter, the  
13 authority shall provide to the legislature an annual report on the  
14 operation of the program. The report shall include information on the  
15 outreach and education components of the program, the impact of the  
16 program on prescribing practices, revenues, expenditures, and balances;  
17 and savings attributable to the program in state-funded health care  
18 programs.

19 (7) The authority may solicit grants and donations from public and  
20 private sources for the program.

21 (8) Nothing in this chapter shall be construed to prohibit carriers  
22 having integrated delivery systems with pharmacy management programs  
23 from establishing and using their own evidenced-based prescribing  
24 standards and educational efforts as a means of meeting the goals and  
25 objectives of the prescription drug professional education program.

26 NEW SECTION. **Sec. 5.** The authority may adopt rules to implement  
27 the provisions of this chapter.

28 NEW SECTION. **Sec. 6.** This chapter may be known and cited as the  
29 prescription drug evidence-based education act.

30 NEW SECTION. **Sec. 7.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

1        NEW SECTION.   **Sec. 8.**   Sections 1 through 7 of this act constitute  
2   a new chapter in Title 70 RCW.

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