FINAL BILL REPORT
ESSB 5892

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Synopsis as Enacted

Brief Description: Concerning prescription drug use in state purchased health care programs.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Keiser and Shin; by request of Governor Gregoire).

Senate Committee on Health & Long-Term Care
Senate Committee on Ways & Means
House Committee on Health Care & Wellness
House Committee on Ways & Means

Background: The 2003 Legislature created an evidence-based prescription drug program for state agencies that purchase prescription drugs directly or through reimbursement to pharmacies. Currently, the Department of Social and Health Services (DSHS) medical assistance program, the Health Care Authority's self-insured program, and the Department of Labor and Industries participate in the program's preferred drug list (PDL). The PDL is a list of prescription drug classes that have gone through an evidence-based review process to determine the safety, efficacy, and effectiveness of drug classes. Washington State contracts with the Center for Evidence-Based Policy, Oregon Health and Science University, to independently review the prescription drug classes, and their recommendations are reviewed by the Washington State Pharmacy and Therapeutics (P&T) Committee, an independent group of pharmacy doctors and medical doctors, which then makes recommendations regarding the preferred drugs on the PDL.

The evidence-based prescription program includes provisions that allow the substitution of a preferred drug for a nonpreferred drug in a given therapeutic class, except where a practitioner has indicated the prescription for the nonpreferred drug must be dispensed as written, or if the prescription is for a refill of an antipsychotic, antidepressant, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of a immunodulator/antiviral treatment for hepatitis C. When a substitution is made, the pharmacist must notify the prescriber of the specific drug and dose dispensed.

The PDL process currently requires that new generic drugs await an updated P&T Committee review of the drug classes before being designated as preferred drugs. Additionally there are some drug classes where both brand-name and generic drugs are included as preferred. Although federal law precludes drug manufacturers from marketing

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drugs for non-Food and Drug Administration (FDA) approved use, prescribers are allowed to prescribe drugs for non-FDA approved use, or off-label use, at their discretion.

Summary: The preferred drug substitution provisions of the evidence-based prescription drug program are amended in order to increase generic utilization, maximize appropriate drug usage, and reduce pharmaceutical expenditures. The state purchasing program may impose limited restrictions on an endorsing practitioner's authority to write a prescription dispense as written in cases where there is evidence the prescriber's frequency of using dispense as written varies significantly from other prescribers. The medical director must discuss the data with the prescriber and allow sufficient time for the prescribing patterns to align with other prescribers.

When a less expensive generic product, in a drug class previously reviewed by the P&T Committee, becomes available, the state program may immediately designate the generic drug as a preferred drug if it is equally effective. Within a therapeutic class, if an over-the-counter drug becomes available, the program may designate the over-the-counter drug as a preferred drug if it is equally effective.

The program may impose limited restrictions on endorsing practitioners' authority to write dispense as written for a patient's first course of treatment within a therapeutic class of drugs. The generic may be provided for the first course if there is a therapeutic alternative generic product and the Drug Use Review Board has reviewed the appropriateness. The endorsing practitioner may request the brand name drug for the first course of treatment when medically necessary through the prior authorization process.

The program may impose limited restrictions on endorsing practitioners' authority to write dispense as written for off-label use of a product, when there is a less expensive FDA approved product to the treat the condition and the Drug Use Review Board has reviewed the appropriateness. The endorsing practitioner may request the off-label drug when medically necessary through the prior authorization process.

The DSHS prior authorization process must provide a response within 24 hours and allow at least a 72-hour emergency supply of the requested drug. Refills of non-preferred drugs continue to be protected, and anti-epileptic drugs are identified as protected refills. The act has an emergency clause and takes effect immediately.

Votes on Final Passage:

Senate	33	16	
House	54	43	(House amended)
Senate	29	15	(Senate concurred)

Effective: May 19, 2009