
ENGROSSED SUBSTITUTE SENATE BILL 5892

State of Washington

61st Legislature

2009 Regular Session

By Senate Ways & Means (originally sponsored by Senators Keiser and Shin; by request of Governor Gregoire)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to authorizing state purchased health care programs
2 to maximize appropriate prescription drug use in a cost-effective
3 manner; amending RCW 69.41.190; and declaring an emergency.

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

5 **Sec. 1.** RCW 69.41.190 and 2006 c 233 s 1 are each amended to read
6 as follows:

7 (1)(a) Except as provided in subsection (2) of this section, any
8 pharmacist filling a prescription under a state purchased health care
9 program as defined in RCW 41.05.011(2) shall substitute, where
10 identified, a preferred drug for any nonpreferred drug in a given
11 therapeutic class, unless the endorsing practitioner has indicated on
12 the prescription that the nonpreferred drug must be dispensed as
13 written, or the prescription is for a refill of an antipsychotic,
14 antidepressant, chemotherapy, antiretroviral, or immunosuppressive
15 drug, or for the refill of a immunomodulator/antiviral treatment for
16 hepatitis C for which an established, fixed duration of therapy is
17 prescribed for at least twenty-four weeks but no more than forty-eight
18 weeks, in which case the pharmacist shall dispense the prescribed
19 nonpreferred drug.

1 ~~((2))~~ (b) When a substitution is made under (a) of this
2 subsection ~~((1) of this section)~~, the dispensing pharmacist shall
3 notify the prescribing practitioner of the specific drug and dose
4 dispensed.

5 (2)(a) A state purchased health care program may impose limited
6 restrictions on an endorsing practitioner's authority to write a
7 prescription to dispense as written only under the following
8 circumstances:

9 (i) There is statistical or clear data demonstrating the endorsing
10 practitioner's frequency of prescribing dispensed as written for
11 nonpreferred drugs varies significantly from the prescribing patterns
12 of his or her peers;

13 (ii) The medical director of a state purchased health program has:
14 (A) Presented the endorsing practitioner with data that indicates the
15 endorsing practitioner's prescribing patterns vary significantly from
16 his or her peers, (B) provided the endorsing practitioner an
17 opportunity to explain the variation in his or her prescribing patterns
18 to those of his or her peers, and (C) if the variation in prescribing
19 patterns cannot be explained, provided the endorsing practitioner
20 sufficient time to change his or her prescribing patterns to align with
21 those of his or her peers; and

22 (iii) The restrictions imposed under (a) of this subsection (2)
23 must be limited to the extent possible to reduce variation in
24 prescribing patterns and shall remain in effect only until such time as
25 the endorsing practitioner can demonstrate a reduction in variation in
26 line with his or her peers.

27 (b) A state purchased health care program may immediately designate
28 an available, less expensive generic product in a previously reviewed
29 drug class as a preferred drug, without first submitting the product to
30 review by the pharmacy and therapeutics committee established pursuant
31 to RCW 70.14.050.

32 (c) Subject to the refill provisions in subsection (1)(a) of this
33 section, for a patient's first course of treatment within a therapeutic
34 class of drugs, a state purchased health care program may impose
35 limited restrictions on endorsing practitioners' authority to write a
36 prescription to dispense as written, only under the following
37 circumstances:

1 (i) There is a less expensive therapeutic alternative generic
2 product available to treat the condition;

3 (ii) The drug use review board established under WAC 388-530-4000
4 reviews and provides recommendations as to the appropriateness of the
5 limitation;

6 (iii) Notwithstanding the limitation set forth in (c)(ii) of this
7 subsection, the endorsing practitioner shall have an opportunity to
8 request as medically necessary, as defined in WAC 388-501-0165(3), that
9 the brand name drug be prescribed as the first course of treatment;

10 (iv) The state purchased health care program may provide, where
11 available, prescription, emergency room, diagnosis, and hospitalization
12 history with the endorsing practitioner; and

13 (v) Specifically for antipsychotic restrictions, the state
14 purchased health care program shall effectively guide good practice
15 without interfering with the timeliness of clinical decision making.

16 (d) If, within a therapeutic class, there is a therapeutic
17 alternative over-the-counter drug available, a state purchased health
18 care program may designate the over-the-counter drug as the preferred
19 drug.

20 (e) A state purchased health care program may impose limited
21 restrictions on endorsing practitioners' authority to prescribe
22 pharmaceuticals to be dispensed as written for a purpose outside the
23 scope of their approved labels only under the following circumstances:

24 (i) There is a less expensive on label product available to treat
25 the condition;

26 (ii) The drug use review board established under WAC 388-530-4000
27 reviews and provides recommendations as to the appropriateness of the
28 limitation; and

29 (iii) Notwithstanding the limitation set forth in (e)(ii) of this
30 subsection, the endorsing practitioner shall have an opportunity to
31 request as medically necessary, as defined in WAC 388-501-0165(3), that
32 the drug be prescribed for an off-label purpose.

33 NEW SECTION. Sec. 2. This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the
35 state government and its existing public institutions, and takes effect

1 immediately.

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