

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5252

61st Legislature
2009 Regular Session

Passed by the Senate April 22, 2009
YEAS 47 NAYS 0

President of the Senate

Passed by the House April 7, 2009
YEAS 97 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5252** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5252

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by
Senators Brandland, Hargrove, and Shin)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to correctional facility policies regarding
2 medication management; amending RCW 70.48.020; adding a new section to
3 chapter 18.64 RCW; adding a new section to chapter 70.48 RCW; and
4 creating new sections.

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

6 NEW SECTION. **Sec. 1.** (1) When funded, the Washington association
7 of sheriffs and police chiefs shall convene a jail medication
8 management work group to develop a model policy regarding the
9 management of medications in jails, to be applicable to jails as
10 defined in RCW 70.48.020. The work group shall address medication
11 management for all units of local government that operate jails that do
12 not have an on-site pharmacy nor own or operate, in whole or in part,
13 a pharmacy. The model policy shall be designed to reflect best
14 practices regarding medication management and to provide guidance in
15 the areas specified under this section.

16 (2) In developing the model policy, the work group shall include
17 members of the pharmaceutical community, including the Washington state
18 pharmacy association and the board of pharmacy, department of health,
19 and members of the nursing community, including the Washington state

1 nurses association. The work group shall review and consider the
2 current policies and practices of cities and counties throughout the
3 state, as directed in RCW 70.48.071, other state policies and
4 practices, and the standards of national organizations, such as the
5 national commission on correctional health care and the American jail
6 association.

7 (3) The jail medication management work group shall present the
8 final model policy to the Washington association of sheriffs and police
9 chiefs for adoption or rejection by December 31, 2009. Any minority
10 position related to the substance of the final model policy shall be
11 presented as an addendum to the policy.

12 (4) The model policy developed by the association shall provide
13 written guidelines regarding jail policies and procedures for the
14 proper dispensing, storage, control, delivery, administration, and
15 disposal of medications. The guidelines shall address the following
16 matters:

17 (a) Provision for agreement between the jail and a licensed
18 pharmacist, pharmacy, or other licensed health care provider or health
19 care facility to ensure access to pharmaceutical services on a twenty-
20 four hour a day basis, including consultation and dispensing services;

21 (b) Intake and screening for inmate medical conditions requiring
22 pharmaceutical services, and evaluation and verification of any
23 pharmaceuticals or medications an inmate has in his or her possession
24 at intake;

25 (c) Notice to inmates of jail policies for gaining access to
26 pharmaceutical services during confinement;

27 (d) Verifying and recording that medications have or have not been
28 delivered, administered, and ingested by an inmate;

29 (e) Reporting by the responsible pharmacist to the jail
30 administrator or chief law enforcement executive regarding services
31 provided to the jail by the pharmacy;

32 (f) Written policies regarding the qualifications of and training
33 for jail personnel regarding all aspects of medication services
34 provided including, but not limited to, nonpractitioner jail personnel
35 authorized to deliver and administer prescription and nonprescription
36 medications under section 4 of this act;

37 (g) Provisions for providing prescribed medication to inmates upon
38 their release or transfer as necessary;

1 (h) Maintenance of a medication storage and delivery system, which
2 ensures that all medications are appropriately secured, stored, and
3 regularly inventoried, and prohibits stocks of prescription medication
4 from being maintained within a jail without an on-site pharmacy, except
5 for the storage of medications to be delivered to a specific inmate as
6 directed by a licensed practitioner;

7 (i) Ensuring that all medications requiring a prescription are
8 properly dispensed, labeled, packaged, and transferred only in
9 accordance with the direction from the pharmacist and applicable state
10 laws;

11 (j) Ensuring the proper disposition of unused medications;

12 (k) Maintaining proper and complete inmate files regarding all
13 prescriptions and administration of medications;

14 (l) Prohibiting the administration, distribution, delivery, or
15 dispensing of medication by inmates;

16 (m) Policies and procedures regarding nonprescription medications,
17 including how they are to be made available;

18 (n) Policies regarding inmate self-administration of prescription
19 and nonprescription medications and safeguards for preventing potential
20 abuse;

21 (o) Preventing the unauthorized use of medications by anyone other
22 than the intended patient;

23 (p) Providing for the routine review and renewal of medication
24 orders by a licensed practitioner with prescriptive authority to ensure
25 patient safety and appropriateness of medication;

26 (q) Providing for the right of an individual to refuse medication,
27 except as required by court order and of the right to informed consent;
28 and

29 (r) Any other policies or procedures deemed applicable by the work
30 group.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.64 RCW
32 to read as follows:

33 Nothing in this chapter or in any provision of law shall be
34 interpreted to invest the board with the authority to regulate or
35 establish standards regarding a jail as defined in RCW 70.48.020 that
36 does not operate, in whole or in part, a pharmacy or a correctional

1 pharmacy. This section does not limit the board's authority to
2 regulate a pharmacist that has entered into an agreement with a jail
3 for the provision of pharmaceutical services.

4 **Sec. 3.** RCW 70.48.020 and 1987 c 462 s 6 are each amended to read
5 as follows:

6 As used in this chapter the words and phrases in this section shall
7 have the meanings indicated unless the context clearly requires
8 otherwise.

9 (1) "Holding facility" means a facility operated by a governing
10 unit primarily designed, staffed, and used for the temporary housing of
11 adult persons charged with a criminal offense prior to trial or
12 sentencing and for the temporary housing of such persons during or
13 after trial and/or sentencing, but in no instance shall the housing
14 exceed thirty days.

15 (2) "Detention facility" means a facility operated by a governing
16 unit primarily designed, staffed, and used for the temporary housing of
17 adult persons charged with a criminal offense prior to trial or
18 sentencing and for the housing of adult persons for purposes of
19 punishment and correction after sentencing or persons serving terms not
20 to exceed ninety days.

21 (3) "Special detention facility" means a minimum security facility
22 operated by a governing unit primarily designed, staffed, and used for
23 the housing of special populations of sentenced persons who do not
24 require the level of security normally provided in detention and
25 correctional facilities including, but not necessarily limited to,
26 persons convicted of offenses under RCW 46.61.502 or 46.61.504.

27 (4) "Correctional facility" means a facility operated by a
28 governing unit primarily designed, staffed, and used for the housing of
29 adult persons serving terms not exceeding one year for the purposes of
30 punishment, correction, and rehabilitation following conviction of a
31 criminal offense.

32 (5) "Jail" means any holding, detention, special detention, or
33 correctional facility as defined in this section.

34 (6) "Health care" means preventive, diagnostic, and rehabilitative
35 services provided by licensed health care professionals and/or
36 facilities; such care to include providing prescription drugs where
37 indicated.

1 (7) "Governing unit" means the city and/or county or any
2 combinations of cities and/or counties responsible for the operation,
3 supervision, and maintenance of a jail.

4 (8) "Major urban" means a county or combination of counties which
5 has a city having a population greater than twenty-six thousand based
6 on the 1978 projections of the office of financial management.

7 (9) "Medium urban" means a county or combination of counties which
8 has a city having a population equal to or greater than ten thousand
9 but less than twenty-six thousand based on the 1978 projections of the
10 office of financial management.

11 (10) "Rural" means a county or combination of counties which has a
12 city having a population less than ten thousand based on the 1978
13 projections of the office of financial management.

14 (11) "Office" means the office of financial management.

15 (12) "Medication assistance" means assistance rendered by
16 nonpractitioner jail personnel to an inmate residing in a jail to
17 facilitate the individual's self-administration of a legend drug or
18 controlled substance or nonprescription medication. "Medication
19 assistance" includes reminding or coaching the individual, handing the
20 medication container to the individual, opening the individual's
21 medication container, using an enabler, or placing the medication in
22 the individual's hand.

23 (13) "Practitioner" has the same meaning as provided in RCW
24 69.41.010.

25 (14) "Nonpractitioner jail personnel" means appropriately trained
26 staff who are authorized to manage, deliver, or administer prescription
27 and nonprescription medication under section 4 of this act.

28 (15) "Administration" means the direct application of a drug
29 whether by ingestion or inhalation, to the body of an inmate by a
30 practitioner or nonpractitioner jail personnel.

31 (16) "Drug" and "legend drug" have the same meanings as provided in
32 RCW 69.41.010.

33 (17) "Medication" means a drug, legend drug, or controlled
34 substance requiring a prescription or an over-the-counter or
35 nonprescription drug.

36 (18) "Deliver" or "delivery" means the actual, constructive, or
37 attempted transfer from one person to another of medication whether or
38 not there is an agency relationship.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.48 RCW
2 to read as follows:

3 Jails may provide for the delivery and administration of
4 medications and medication assistance for inmates in their custody by
5 nonpractitioner jail personnel, subject to the following conditions:

6 (1) The jail administrator or his or her designee, or chief law
7 enforcement executive or his or her designee, shall enter into an
8 agreement between the jail and a licensed pharmacist, pharmacy, or
9 other licensed practitioner or health care facility to ensure access to
10 pharmaceutical services on a twenty-four hour a day basis, including
11 consultation and dispensing services.

12 (2) The jail administrator or chief law enforcement executive shall
13 adopt policies which address the designation and training of
14 nonpractitioner jail personnel who may deliver and administer
15 medications or provide medication assistance to inmates as provided in
16 this chapter. The policies must address the administration of
17 prescriptions from licensed practitioners prescribing within the scope
18 of their prescriptive authority, the identification of medication to be
19 delivered and administered or administered through medication
20 assistance, the means of securing medication with attention to the
21 safeguarding of legend drugs, and the means of maintaining a record of
22 the delivery, administration, self-administration, or medication
23 assistance of all medication. The jail administrator or chief law
24 enforcement executive shall designate a physician licensed under
25 chapter 18.71 RCW, or a registered nurse or advanced registered nurse
26 practitioner licensed under chapter 18.79 RCW, to train the designated
27 nonpractitioner jail personnel in proper medication procedures and
28 monitor their compliance with the procedures.

29 (3) The jail administrator or chief law enforcement executive shall
30 consult with one or more pharmacists, and one or more licensed
31 physicians or nurses, in the course of developing the policies
32 described in subsections (1) and (2) of this section. A jail shall
33 provide the Washington association of sheriffs and police chiefs with
34 a copy of the jail's current policies regarding medication management.

35 (4) The practitioner or nonpractitioner jail personnel delivering,
36 administering, or providing medication assistance is in receipt of (a)
37 for prescription drugs, a written, current, and unexpired prescription,
38 and instructions for administration from a licensed practitioner

1 prescribing within the scope of his or her prescriptive authority for
2 administration of the prescription drug; (b) for nonprescription drugs,
3 a written, current, and unexpired instruction from a licensed
4 practitioner regarding the administration of the nonprescription drug;
5 and (c) for minors under the age of eighteen, a written, current
6 consent from the minor's parent, legal guardian, or custodian
7 consenting to the administration of the medication.

8 (5) Nonpractitioner jail personnel may help in the preparation of
9 legend drugs or controlled substances for self-administration where a
10 practitioner has determined and communicated orally or by written
11 direction that the medication preparation assistance is necessary and
12 appropriate. Medication assistance shall not include assistance with
13 intravenous medications or injectable medications.

14 (6) Nonpractitioner jail personnel shall not include inmates.

15 (7) All medication is delivered and administered and all medication
16 assistance is provided by a practitioner or nonpractitioner jail
17 personnel pursuant to the policies adopted in this section, and in
18 compliance with the prescription of a practitioner prescribing within
19 the scope of his or her prescriptive authority, or the written
20 instructions as provided in this section.

21 (8) The jail administrator or the chief law enforcement executive
22 shall ensure that all nonpractitioner jail personnel authorized to
23 deliver, administer, and provide medication assistance are trained
24 pursuant to the policies adopted in this section prior to being
25 permitted to deliver, administer, or provide medication assistance to
26 an inmate.

27 NEW SECTION. **Sec. 5.** The department of health shall annually
28 review the medication practices of five jails that provide for the
29 delivery and administration of medications to inmates in their custody
30 by nonpractitioner jail personnel. The review shall assess whether the
31 jails are in compliance with sections 3 and 4 of this act. To the
32 extent that a jail is found not in compliance, the department shall
33 provide technical assistance to assist the jail in resolving any areas
34 of noncompliance.

35 NEW SECTION. **Sec. 6.** If specific funding for the purposes of

1 section 1 of this act, referencing section 1 of this act by bill or
2 chapter number and section number, is not provided by June 30, 2009, in
3 the omnibus appropriations act, section 1 of this act is null and void.

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