
SUBSTITUTE SENATE BILL 5148

State of Washington

63rd Legislature

2013 Regular Session

By Senate Health Care (originally sponsored by Senators Keiser, Becker, Cleveland, Conway, Frockt, Parlette, Rolfes, Kohl-Welles, Schlicher, and Kline)

READ FIRST TIME 02/06/13.

1 AN ACT Relating to medication access for the uninsured; adding a
2 new chapter to Title 69 RCW; and providing an effective date.

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

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Department" means the department of health.

7 (2) "Drug manufacturer" means a facility licensed by the board of
8 pharmacy under chapter 18.64 RCW that engages in the manufacture of
9 drugs or devices.

10 (3) "Drug wholesaler" means a facility licensed by the board of
11 pharmacy under chapter 18.64 RCW that buys drugs or devices for resale
12 and distribution to corporations, individuals, or entities other than
13 consumers.

14 (4) "Medical facility" means a hospital, pharmacy, nursing home,
15 boarding home, adult family home, or medical clinic where the
16 prescription drugs are under the control of a practitioner.

17 (5) "Person" means an individual, corporation, business trust,
18 estate, trust, partnership, association, joint venture, government,

1 governmental subdivision or agency, or any other legal or commercial
2 entity.

3 (6) "Pharmacist" means a person licensed by the board of pharmacy
4 under chapter 18.64 RCW to practice pharmacy.

5 (7) "Pharmacy" means a facility licensed by the board of pharmacy
6 under chapter 18.64 RCW in which the practice of pharmacy is conducted.

7 (8) "Practitioner" has the same meaning as in RCW 69.41.010.

8 (9) "Prescribing practitioner" means a person authorized to issue
9 orders or prescriptions for legend drugs as listed in RCW 69.41.030.

10 (10) "Prescription drugs" has the same meaning as "legend drugs" as
11 defined in RCW 69.41.010. The term includes cancer drugs and
12 antirejection drugs. The term does not include controlled substances.

13 (11) "Supplies" means the supplies necessary to administer
14 prescription drugs that are donated under the prescription drug
15 redistribution program.

16 NEW SECTION. **Sec. 2.** Any practitioner, pharmacist, medical
17 facility, drug manufacturer, or drug wholesaler may donate prescription
18 drugs and supplies to a pharmacy for redistribution without
19 compensation or the expectation of compensation to individuals who meet
20 the prioritization criteria established in section 3 of this act.
21 Donations of prescription drugs and supplies may be made on the
22 premises of a pharmacy that elects to participate in the provisions of
23 this chapter. A pharmacy that receives prescription drugs or supplies
24 may distribute the prescription drugs or supplies to another pharmacy,
25 pharmacist, or prescribing practitioner for use pursuant to the
26 program.

27 NEW SECTION. **Sec. 3.** Pharmacies, pharmacists, and prescribing
28 practitioners that elect to dispense donated prescription drugs and
29 supplies under this chapter shall give priority to individuals who are
30 uninsured and at or below two hundred percent of the federal poverty
31 level. If an uninsured and low-income individual has not been
32 identified as in need of available prescription drugs and supplies,
33 those prescription drugs and supplies may be dispensed to other
34 individuals expressing need.

1 NEW SECTION. **Sec. 4.** (1) Prescription drugs or supplies may be
2 accepted and dispensed under this chapter if all of the following
3 conditions are met:

4 (a) The prescription drug is in:

5 (i) Its original sealed and tamper evident packaging; or

6 (ii) An opened package if it contains single unit doses that remain
7 intact;

8 (b) The prescription drug bears an expiration date that is more
9 than six months after the date the prescription drug was donated;

10 (c) The prescription drug or supplies are inspected before the
11 prescription drug or supplies are dispensed by a pharmacist employed by
12 or under contract with the pharmacy, and the pharmacist determines that
13 the prescription drug or supplies are not adulterated or misbranded;

14 (d) The prescription drug or supplies are prescribed by a
15 practitioner for use by an eligible individual and are dispensed by a
16 pharmacist; and

17 (e) Any other safety precautions established by the department have
18 been satisfied.

19 (2)(a) If a person who donates prescription drugs or supplies to a
20 pharmacy under this chapter receives a notice that the donated
21 prescription drugs or supplies have been recalled, the person shall
22 notify the pharmacy of the recall.

23 (b) If a pharmacy that receives and distributes donated
24 prescription drugs to another pharmacy, pharmacist, or prescribing
25 practitioner under this chapter receives notice that the donated
26 prescription drugs or supplies have been recalled, the pharmacy shall
27 notify the other pharmacy, pharmacist, or prescribing practitioner of
28 the recall.

29 (c) If a person collecting or distributing donated prescription
30 drugs or supplies under this chapter receives a recall notice from the
31 drug manufacturer or the federal food and drug administration for
32 donated prescription drugs or supplies, the person shall immediately
33 remove all recalled medications from stock and comply with the
34 instructions in the recall notice.

35 (3) Prescription drugs and supplies donated under this chapter may
36 not be resold.

37 (4) Prescription drugs and supplies dispensed under this chapter

1 shall not be eligible for reimbursement under the medical assistance
2 program.

3 NEW SECTION. **Sec. 5.** (1) The department must adopt rules
4 establishing forms and procedures to: Reasonably verify eligibility
5 and prioritize patients seeking to receive donated prescription drugs
6 and supplies; and inform a person receiving prescription drugs donated
7 under this program that the prescription drugs have been donated for
8 the purposes of redistribution. A patient's eligibility may be
9 determined by a form signed by the patient certifying that the patient
10 is uninsured and at or below two hundred percent of the federal poverty
11 level.

12 (2) The department may establish any other rules necessary to
13 implement this chapter.

14 NEW SECTION. **Sec. 6.** (1) Except as provided in subsection (2) of
15 this section, a practitioner, pharmacist, medical facility, drug
16 manufacturer, or drug wholesaler who donates, accepts, or dispenses
17 prescription drugs or supplies for redistribution under this chapter is
18 not subject to criminal prosecution, professional discipline, or civil
19 liability for damages for injury, death, or loss to a person or
20 property for matters relating to the donation, acceptance, or
21 dispensing of the prescription drug, including liability for failure to
22 transfer or communicate product or consumer information or the
23 expiration date of the donated prescription drugs or supplies.

24 (2) The protections provided under subsection (1) of this section
25 do not apply if the practitioner, pharmacist, medical facility, drug
26 manufacturer, or drug wholesaler commits acts or omissions of this
27 chapter that constitute gross negligence. For a person distributing
28 donated prescription drugs under this chapter, gross negligence is not
29 shown if a person:

30 (a) Meets all requirements of section 5 of this act and any
31 applicable rules relating to the return or exchange of prescription
32 drugs or supplies adopted by the board of pharmacy;

33 (b) Maintains records of any prescription drugs and supplies
34 donated to the pharmacy and subsequently dispensed by the pharmacy; and

35 (c) Identifies himself or herself to the public as participating in
36 the prescription drug redistribution program created by this chapter.

1 NEW SECTION. **Sec. 7.** Access to prescription drugs and supplies
2 under this chapter is subject to availability. Nothing in this chapter
3 establishes an entitlement to receive prescription drugs and supplies
4 through the program.

5 NEW SECTION. **Sec. 8.** Nothing in this chapter restricts the use of
6 samples by a practitioner during the course of the practitioner's
7 duties at a medical facility or pharmacy.

8 NEW SECTION. **Sec. 9.** Nothing in this chapter authorizes the
9 resale of prescription drugs by any person.

10 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute
11 a new chapter in Title 69 RCW.

12 NEW SECTION. **Sec. 11.** This act takes effect July 1, 2014.

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