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SECOND SUBSTITUTE HOUSE BILL 2681

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State of Washington

64th Legislature

2016 Regular Session

**By** House Appropriations (originally sponsored by Representatives Stambaugh, Manweller, Short, Kochmar, Wilson, Magendanz, Griffey, Riccelli, Cody, and Robinson)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to authorizing pharmacists to prescribe and  
2 dispense contraceptives; amending RCW 18.64.011; reenacting and  
3 amending RCW 69.41.030; adding a new section to chapter 43.70 RCW;  
4 creating new sections; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.70  
7 RCW to read as follows:

8 The state health officer or a county health officer may enter  
9 into agreements with a pharmacist in order for the pharmacist to  
10 initiate or modify drug therapy related to self-administered hormonal  
11 contraception in accordance with written guidelines and protocols  
12 previously established and approved for the pharmacist's practice by  
13 the state health officer or a county health officer.

14 **Sec. 2.** RCW 18.64.011 and 2015 c 234 s 3 are each amended to  
15 read as follows:

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

18 (1) "Administer" means the direct application of a drug or  
19 device, whether by injection, inhalation, ingestion, or any other  
20 means, to the body of a patient or research subject.

1 (2) "Business licensing system" means the mechanism established  
2 by chapter 19.02 RCW by which business licenses, endorsed for  
3 individual state-issued licenses, are issued and renewed utilizing a  
4 business license application and a business license expiration date  
5 common to each renewable license endorsement.

6 (3) "Commission" means the pharmacy quality assurance commission.

7 (4) "Compounding" means the act of combining two or more  
8 ingredients in the preparation of a prescription.

9 (5) "Controlled substance" means a drug or substance, or an  
10 immediate precursor of such drug or substance, so designated under or  
11 pursuant to the provisions of chapter 69.50 RCW.

12 (6) "Deliver" or "delivery" means the actual, constructive, or  
13 attempted transfer from one person to another of a drug or device,  
14 whether or not there is an agency relationship.

15 (7) "Department" means the department of health.

16 (8) "Device" means instruments, apparatus, and contrivances,  
17 including their components, parts, and accessories, intended (a) for  
18 use in the diagnosis, cure, mitigation, treatment, or prevention of  
19 disease in human beings or other animals, or (b) to affect the  
20 structure or any function of the body of human beings or other  
21 animals.

22 (9) "Dispense" means the interpretation of a prescription or  
23 order for a drug, biological, or device and, pursuant to that  
24 prescription or order, the proper selection, measuring, compounding,  
25 labeling, or packaging necessary to prepare that prescription or  
26 order for delivery.

27 (10) "Distribute" means the delivery of a drug or device other  
28 than by administering or dispensing.

29 (11) "Drug" and "devices" do not include surgical or dental  
30 instruments or laboratory materials, gas and oxygen, therapy  
31 equipment, X-ray apparatus or therapeutic equipment, their component  
32 parts or accessories, or equipment, instruments, apparatus, or  
33 contrivances used to render such articles effective in medical,  
34 surgical, or dental treatment, or for use or consumption in or for  
35 mechanical, industrial, manufacturing, or scientific applications or  
36 purposes. "Drug" also does not include any article or mixture covered  
37 by the Washington pesticide control act (chapter 15.58 RCW), as  
38 enacted or hereafter amended, nor medicated feed intended for and  
39 used exclusively as a feed for animals other than human beings.

40 (12) "Drugs" means:

1 (a) Articles recognized in the official United States  
2 pharmacopoeia or the official homeopathic pharmacopoeia of the United  
3 States;

4 (b) Substances intended for use in the diagnosis, cure,  
5 mitigation, treatment, or prevention of disease in human beings or  
6 other animals;

7 (c) Substances (other than food) intended to affect the structure  
8 or any function of the body of human beings or other animals; or

9 (d) Substances intended for use as a component of any substances  
10 specified in (a), (b), or (c) of this subsection, but not including  
11 devices or their component parts or accessories.

12 (13) "Health care entity" means an organization that provides  
13 health care services in a setting that is not otherwise licensed by  
14 the state to acquire or possess legend drugs. Health care entity  
15 includes a freestanding outpatient surgery center, a residential  
16 treatment facility, and a freestanding cardiac care center. "Health  
17 care entity" does not include an individual practitioner's office or  
18 a multipractitioner clinic, regardless of ownership, unless the owner  
19 elects licensure as a health care entity. "Health care entity" also  
20 does not include an individual practitioner's office or  
21 multipractitioner clinic identified by a hospital on a pharmacy  
22 application or renewal pursuant to RCW 18.64.043.

23 (14) "Labeling" means the process of preparing and affixing a  
24 label to any drug or device container. The label must include all  
25 information required by current federal and state law and pharmacy  
26 rules.

27 (15) "Legend drugs" means any drugs which are required by any  
28 applicable federal or state law or regulation to be dispensed on  
29 prescription only or are restricted to use by practitioners only.

30 (16) "Manufacture" means the production, preparation,  
31 propagation, compounding, or processing of a drug or other substance  
32 or device or the packaging or repackaging of such substance or  
33 device, or the labeling or relabeling of the commercial container of  
34 such substance or device, but does not include the activities of a  
35 practitioner who, as an incident to his or her administration or  
36 dispensing such substance or device in the course of his or her  
37 professional practice, personally prepares, compounds, packages, or  
38 labels such substance or device. "Manufacture" includes the  
39 distribution of a licensed pharmacy compounded drug product to other  
40 state licensed persons or commercial entities for subsequent resale

1 or distribution, unless a specific product item has approval of the  
2 commission. The term does not include:

3 (a) The activities of a licensed pharmacy that compounds a  
4 product on or in anticipation of an order of a licensed practitioner  
5 for use in the course of their professional practice to administer to  
6 patients, either personally or under their direct supervision;

7 (b) The practice of a licensed pharmacy when repackaging  
8 commercially available medication in small, reasonable quantities for  
9 a practitioner legally authorized to prescribe the medication for  
10 office use only;

11 (c) The distribution of a drug product that has been compounded  
12 by a licensed pharmacy to other appropriately licensed entities under  
13 common ownership or control of the facility in which the compounding  
14 takes place; or

15 (d) The delivery of finished and appropriately labeled compounded  
16 products dispensed pursuant to a valid prescription to alternate  
17 delivery locations, other than the patient's residence, when  
18 requested by the patient, or the prescriber to administer to the  
19 patient, or to another licensed pharmacy to dispense to the patient.

20 (17) "Manufacturer" means a person, corporation, or other entity  
21 engaged in the manufacture of drugs or devices.

22 (18) "Nonlegend" or "nonprescription" drugs means any drugs which  
23 may be lawfully sold without a prescription.

24 (19) "Person" means an individual, corporation, government,  
25 governmental subdivision or agency, business trust, estate, trust,  
26 partnership or association, or any other legal entity.

27 (20) "Pharmacist" means a person duly licensed by the commission  
28 to engage in the practice of pharmacy.

29 (21) "Pharmacy" means every place properly licensed by the  
30 commission where the practice of pharmacy is conducted.

31 (22) "Poison" does not include any article or mixture covered by  
32 the Washington pesticide control act (chapter 15.58 RCW), as enacted  
33 or hereafter amended.

34 (23) "Practice of pharmacy" includes the practice of and  
35 responsibility for: Interpreting prescription orders; the  
36 compounding, dispensing, labeling, administering, and distributing of  
37 drugs and devices; the monitoring of drug therapy and use; the  
38 initiating or modifying of drug therapy in accordance with written  
39 guidelines or protocols previously established and approved for his  
40 or her practice by a practitioner authorized to prescribe drugs or by

1 the state health officer or a county health officer pursuant to  
2 section 1 of this act; the participating in drug utilization reviews  
3 and drug product selection; the proper and safe storing and  
4 distributing of drugs and devices and maintenance of proper records  
5 thereof; the providing of information on legend drugs which may  
6 include, but is not limited to, the advising of therapeutic values,  
7 hazards, and the uses of drugs and devices.

8 (24) "Practitioner" means a physician, dentist, veterinarian,  
9 nurse, or other person duly authorized by law or rule in the state of  
10 Washington to prescribe drugs.

11 (25) "Prescription" means an order for drugs or devices issued by  
12 a practitioner duly authorized by law or rule in the state of  
13 Washington to prescribe drugs or devices in the course of his or her  
14 professional practice for a legitimate medical purpose.

15 (26) "Secretary" means the secretary of health or the secretary's  
16 designee.

17 (27) "Wholesaler" means a corporation, individual, or other  
18 entity which buys drugs or devices for resale and distribution to  
19 corporations, individuals, or entities other than consumers.

20 **Sec. 3.** RCW 69.41.030 and 2013 c 71 s 1 and 2013 c 12 s 1 are  
21 each reenacted and amended to read as follows:

22 (1) It shall be unlawful for any person to sell, deliver, or  
23 possess any legend drug except upon the order or prescription of a  
24 physician under chapter 18.71 RCW, an osteopathic physician and  
25 surgeon under chapter 18.57 RCW, an optometrist licensed under  
26 chapter 18.53 RCW who is certified by the optometry board under RCW  
27 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician  
28 and surgeon under chapter 18.22 RCW, a veterinarian under chapter  
29 18.92 RCW, a commissioned medical or dental officer in the United  
30 States armed forces or public health service in the discharge of his  
31 or her official duties, a duly licensed physician or dentist employed  
32 by the veterans administration in the discharge of his or her  
33 official duties, a registered nurse or advanced registered nurse  
34 practitioner under chapter 18.79 RCW when authorized by the nursing  
35 care quality assurance commission, a pharmacist licensed under  
36 chapter 18.64 RCW to the extent permitted by drug therapy guidelines  
37 or protocols established under RCW 18.64.011 and authorized by the  
38 (~~board of~~) pharmacy quality assurance commission and approved by a  
39 practitioner authorized to prescribe drugs or the state health

1 officer or a county health officer pursuant to section 1 of this act,  
2 an osteopathic physician assistant under chapter 18.57A RCW when  
3 authorized by the board of osteopathic medicine and surgery, a  
4 physician assistant under chapter 18.71A RCW when authorized by the  
5 medical quality assurance commission, or any of the following  
6 professionals in any province of Canada that shares a common border  
7 with the state of Washington or in any state of the United States: A  
8 physician licensed to practice medicine and surgery or a physician  
9 licensed to practice osteopathic medicine and surgery, a dentist  
10 licensed to practice dentistry, a podiatric physician and surgeon  
11 licensed to practice podiatric medicine and surgery, a licensed  
12 advanced registered nurse practitioner, a licensed physician  
13 assistant, a licensed osteopathic physician assistant, or a  
14 veterinarian licensed to practice veterinary medicine: PROVIDED,  
15 HOWEVER, That the above provisions shall not apply to sale, delivery,  
16 or possession by drug wholesalers or drug manufacturers, or their  
17 agents or employees, or to any practitioner acting within the scope  
18 of his or her license, or to a common or contract carrier or  
19 warehouse operator, or any employee thereof, whose possession of any  
20 legend drug is in the usual course of business or employment:  
21 PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW  
22 shall prevent a family planning clinic that is under contract with  
23 the health care authority from selling, delivering, possessing, and  
24 dispensing commercially prepackaged oral contraceptives prescribed by  
25 authorized, licensed health care practitioners.

26 (2)(a) A violation of this section involving the sale, delivery,  
27 or possession with intent to sell or deliver is a class B felony  
28 punishable according to chapter 9A.20 RCW.

29 (b) A violation of this section involving possession is a  
30 misdemeanor.

31 NEW SECTION. **Sec. 4.** To increase awareness of the availability  
32 of contraceptives in pharmacies, the pharmacy quality assurance  
33 commission shall develop a sticker or sign to be displayed on the  
34 window or door of a pharmacy that initiates or modifies drug therapy  
35 related to self-administered contraception.

36 NEW SECTION. **Sec. 5.** The pharmacy quality assurance commission  
37 may adopt any rules necessary to implement this act.

1        NEW SECTION.    **Sec. 6.**    Sections 1 through 4 of this act take  
2 effect January 1, 2017.

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