
SENATE BILL 6467

State of Washington

64th Legislature

2016 Regular Session

By Senators Rivers, Litzow, Fain, Rolfes, Hill, Keiser, Lias, and Chase

Read first time 01/21/16. Referred to Committee on Health Care.

1 AN ACT Relating to permitting pharmacists to prescribe and
2 dispense contraceptive patches and oral contraception; amending RCW
3 18.64.011; reenacting and amending RCW 69.41.030; adding a new
4 section to chapter 18.64 RCW; adding a new section to chapter 48.44
5 RCW; and prescribing penalties.

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

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

9 (1) It shall be unlawful for any person to sell, deliver, or
10 possess any legend drug except upon the order or prescription of a
11 physician under chapter 18.71 RCW, an osteopathic physician and
12 surgeon under chapter 18.57 RCW, an optometrist licensed under
13 chapter 18.53 RCW who is certified by the optometry board under RCW
14 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
15 and surgeon under chapter 18.22 RCW, a veterinarian under chapter
16 18.92 RCW, a commissioned medical or dental officer in the United
17 States armed forces or public health service in the discharge of his
18 or her official duties, a duly licensed physician or dentist employed
19 by the veterans administration in the discharge of his or her
20 official duties, a registered nurse or advanced registered nurse
21 practitioner under chapter 18.79 RCW when authorized by the nursing

1 care quality assurance commission, a pharmacist licensed under
2 chapter 18.64 RCW to the extent permitted (~~(by drug therapy~~
3 ~~guidelines or protocols established)~~) under RCW 18.64.011 and
4 authorized by the (~~board of~~) pharmacy (~~(and approved by a~~
5 ~~practitioner authorized to prescribe drugs)~~) quality assurance
6 commission, an osteopathic physician assistant under chapter 18.57A
7 RCW when authorized by the board of osteopathic medicine and surgery,
8 a physician assistant under chapter 18.71A RCW when authorized by the
9 medical quality assurance commission, or any of the following
10 professionals in any province of Canada that shares a common border
11 with the state of Washington or in any state of the United States: A
12 physician licensed to practice medicine and surgery or a physician
13 licensed to practice osteopathic medicine and surgery, a dentist
14 licensed to practice dentistry, a podiatric physician and surgeon
15 licensed to practice podiatric medicine and surgery, a licensed
16 advanced registered nurse practitioner, a licensed physician
17 assistant, a licensed osteopathic physician assistant, or a
18 veterinarian licensed to practice veterinary medicine: PROVIDED,
19 HOWEVER, That the above provisions shall not apply to sale, delivery,
20 or possession by drug wholesalers or drug manufacturers, or their
21 agents or employees, or to any practitioner acting within the scope
22 of his or her license, or to a common or contract carrier or
23 warehouse operator, or any employee thereof, whose possession of any
24 legend drug is in the usual course of business or employment:
25 PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW
26 shall prevent a family planning clinic that is under contract with
27 the health care authority from selling, delivering, possessing, and
28 dispensing commercially prepackaged oral contraceptives prescribed by
29 authorized, licensed health care practitioners.

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

33 (b) A violation of this section involving possession is a
34 misdemeanor.

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

37 The definitions in this section apply throughout this chapter
38 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

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

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

32 (11) "Drug" and "devices" do not include surgical or dental
33 instruments or laboratory materials, gas and oxygen, therapy
34 equipment, X-ray apparatus or therapeutic equipment, their component
35 parts or accessories, or equipment, instruments, apparatus, or
36 contrivances used to render such articles effective in medical,
37 surgical, or dental treatment, or for use or consumption in or for
38 mechanical, industrial, manufacturing, or scientific applications or
39 purposes. "Drug" also does not include any article or mixture covered
40 by the Washington pesticide control act (chapter 15.58 RCW), as

1 enacted or hereafter amended, nor medicated feed intended for and
2 used exclusively as a feed for animals other than human beings.

3 (12) "Drugs" means:

4 (a) Articles recognized in the official United States
5 pharmacopoeia or the official homeopathic pharmacopoeia of the United
6 States;

7 (b) Substances intended for use in the diagnosis, cure,
8 mitigation, treatment, or prevention of disease in human beings or
9 other animals;

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

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

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

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

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

33 (16) "Manufacture" means the production, preparation,
34 propagation, compounding, or processing of a drug or other substance
35 or device or the packaging or repackaging of such substance or
36 device, or the labeling or relabeling of the commercial container of
37 such substance or device, but does not include the activities of a
38 practitioner who, as an incident to his or her administration or
39 dispensing such substance or device in the course of his or her
40 professional practice, personally prepares, compounds, packages, or

1 labels such substance or device. "Manufacture" includes the
2 distribution of a licensed pharmacy compounded drug product to other
3 state licensed persons or commercial entities for subsequent resale
4 or distribution, unless a specific product item has approval of the
5 commission. The term does not include:

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

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

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

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

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

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

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

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

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

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

37 (23) "Practice of pharmacy" includes the practice of and
38 responsibility for:

39 (a) Interpreting prescription orders; (~~the~~)

1 **(b)** Compounding, dispensing, labeling, administering, and
2 distributing of drugs and devices; (~~the~~)

3 **(c)** Monitoring of drug therapy and use; (~~the~~)

4 **(d)** Initiating or modifying of drug therapy in accordance with
5 written guidelines or protocols previously established and approved
6 for his or her practice by a practitioner authorized to prescribe
7 drugs; (~~the~~)

8 **(e)** Prescribing and dispensing contraceptive patches and oral
9 contraceptives as provided in section 3 of this act;

10 **(f)** Participating in drug utilization reviews and drug product
11 selection; (~~the~~)

12 **(g)** Proper and safe storing and distributing of drugs and devices
13 and maintenance of proper records thereof; (~~the~~) and

14 **(h)** Providing of information on legend drugs which may include,
15 but is not limited to, the advising of therapeutic values, hazards,
16 and the uses of drugs and devices.

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

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

24 (26) "Secretary" means the secretary of health or the secretary's
25 designee.

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

29 **(28) "Contraceptive patch" means a transdermal patch applied to**
30 **the skin of a patient, by the patient or by a practitioner, that**
31 **releases a drug composed of a combination of hormones that is**
32 **approved by the United States food and drug administration to prevent**
33 **pregnancy.**

34 **(29) "Oral contraceptive" means a drug composed of a combination**
35 **of hormones that is approved by the United States food and drug**
36 **administration to prevent pregnancy and that the patient to whom the**
37 **drug is prescribed may take orally.**

38 **NEW SECTION. Sec. 3.** A new section is added to chapter 18.64
39 RCW to read as follows:

1 (1) A pharmacist may prescribe and dispense contraceptive patches
2 and oral contraceptives to a person who is:

3 (a) At least eighteen years of age, regardless of whether the
4 person has evidence of a previous prescription from a primary care
5 practitioner or women's health care practitioner for a contraceptive
6 patch or oral contraceptive; or

7 (b) Under eighteen years of age, only if the person has evidence
8 of a previous prescription for a contraceptive patch or oral
9 contraceptive.

10 (2) The commission must adopt rules to establish, in consultation
11 with the medical quality assurance commission and the nursing quality
12 assurance commission, and in consideration of guidelines established
13 by the American congress of obstetricians and gynecologists, standard
14 procedures for the prescribing of contraceptive patches and oral
15 contraceptives by pharmacists. The rules adopted must require a
16 pharmacist to:

17 (a) Complete a training program approved by the commission that
18 is related to prescribing contraceptive patches and oral
19 contraceptives;

20 (b) Provide a self-screening risk assessment tool that the
21 patient must use before the pharmacist prescribes the contraceptive
22 patch or oral contraceptive;

23 (c) Refer the patient to the patient's primary care practitioner
24 or women's health care practitioner upon prescribing and dispensing
25 the contraceptive patch or oral contraceptive;

26 (d) Provide the patient with a written record of the
27 contraceptive patch or oral contraceptive prescribed and dispensed
28 and advise the patient to consult with a primary care practitioner or
29 women's health care practitioner; and

30 (e) Dispense the contraceptive patch or oral contraceptive to the
31 patient as soon as practicable after the pharmacist issues the
32 prescription.

33 (3) When prescribing or dispensing contraceptive patches or oral
34 contraceptives, a pharmacist may not:

35 (a) Require a patient to schedule an appointment with the
36 pharmacist for the prescribing or dispensing of a contraceptive patch
37 or oral contraceptive; and

38 (b) Prescribe and dispense a contraceptive patch or oral
39 contraceptive to a patient who does not have evidence of a clinical
40 visit for women's health within the three years immediately following

1 the initial prescription and dispensation of a contraceptive patch or
2 oral contraceptive by a pharmacist to a patient.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.44
4 RCW to read as follows:

5 All state and federal laws governing insurance coverage of
6 contraceptive drugs, devices, products, and services apply to
7 contraceptive patches and oral contraceptives prescribed by a
8 pharmacist.

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