
ENGROSSED SUBSTITUTE SENATE BILL 5203

State of Washington

67th Legislature

2021 Regular Session

By Senate Health & Long Term Care (originally sponsored by Senators Van De Wege, Carlyle, Frockt, Hasegawa, Keiser, Lias, Nguyen, Randall, Robinson, Salomon, Stanford, and Wilson, C.)

READ FIRST TIME 02/08/21.

1 AN ACT Relating to the production, distribution, and purchase of
2 generic prescription drugs and distribution or purchase of insulin;
3 amending RCW 70.14.060; and adding a new section to chapter 70.14
4 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.14
7 RCW to read as follows:

8 (1)(a) The authority may enter into partnerships with another
9 state, a group of states, a state agency, a nonprofit organization,
10 or any other entity to produce, distribute, or purchase generic
11 prescription drugs and distribute and purchase insulin. The authority
12 may only enter into a partnership with a nongovernmental entity after
13 a competitive bidding process.

14 (b) The generic prescription drugs and insulin must be produced
15 or distributed by a drug company or generic drug manufacturer that is
16 registered with the United States food and drug administration.

17 (2) The authority shall only enter into partnerships, in
18 consultation with other state agencies as necessary, to produce,
19 distribute, or purchase a generic prescription drug or insulin at a
20 price that results in savings to public and private purchasers and
21 consumers.

1 (3) For generic prescription drugs and insulin that the authority
2 has entered into a partnership under this section:

3 (a) State purchased health care programs must purchase the
4 generic prescription drugs and insulin through the partnership,
5 unless the state purchased health care program can obtain the generic
6 prescription drug or insulin at a cost savings through another
7 purchasing mechanism; and

8 (b) Local governments, private entities, health carriers, and
9 others may choose to voluntarily purchase the generic prescription
10 drugs and insulin from the authority as available quantities allow.

11 (4) All information and documents obtained or created under this
12 section is exempt from disclosure under chapter 42.56 RCW.

13 (5) For purposes of this section, the following definitions
14 apply:

15 (a) "Authority" means the health care authority.

16 (b) "Eligible prescription drug" means a prescription drug or
17 biological product, as defined in 42 U.S.C. Sec. 262(i), that is not
18 under patent.

19 (c) "Generic drug" means a drug that is approved pursuant to an
20 application referencing an eligible prescription drug that is
21 submitted under section 505(j) of the federal food, drug, and
22 cosmetic act (21 U.S.C. Sec. 301 et seq.), or section 351(k) of the
23 federal public health service act (42 U.S.C. Sec. 262).

24 (d) "State purchased health care" means medical and health care,
25 pharmaceuticals, and medical equipment purchased with state and
26 federal funds by the department of social and health services,
27 department of health, state health care authority, department of
28 labor and industries, department of corrections, and department of
29 veterans affairs. State purchased health care does not include
30 prescription drugs purchased for medical assistance program clients
31 under chapter 74.09 RCW.

32 **Sec. 2.** RCW 70.14.060 and 2020 c 346 s 4 are each amended to
33 read as follows:

34 (1)(a) The ((~~administrator~~—[~~director~~])) director of the state
35 health care authority shall, directly or by contract, adopt policies
36 necessary for establishment of a prescription drug purchasing
37 consortium. The consortium's purchasing activities shall be based
38 upon the evidence-based prescription drug program established under
39 RCW 70.14.050. ((State)) Except as provided in section 1 of this act

1 or exempted under (b) of this subsection, state purchased health care
2 programs as defined in RCW 41.05.011 shall purchase prescription
3 drugs through the consortium for those prescription drugs that are
4 purchased directly by the state and those that are purchased through
5 reimbursement of pharmacies(~~(, unless exempted under (b) of this~~
6 ~~subsection)).~~ The (~~administrator [director]~~) director shall not
7 require any supplemental rebate offered to the health care authority
8 by a pharmaceutical manufacturer for prescription drugs purchased for
9 medical assistance program clients under chapter 74.09 RCW be
10 extended to any other state purchased health care program, or to any
11 other individuals or entities participating in the consortium. The
12 (~~administrator [director]~~) director shall explore joint purchasing
13 opportunities with other states.

14 (b) State purchased health care programs are exempt from the
15 requirements of this section if they can demonstrate to the
16 (~~administrator [director]~~) director of the state health care
17 authority that, as a result of the availability of federal programs
18 or other purchasing arrangements, their other purchasing mechanisms
19 will result in greater discounts and aggregate cost savings than
20 would be realized through participation in the consortium.

21 (2) Participation in the purchasing consortium shall be offered
22 as an option beginning January 1, 2006. Participation in the
23 consortium is purely voluntary for units of local government, private
24 entities, labor organizations, health carriers as provided in RCW
25 48.43.005, state purchased health care services from or through
26 health carriers as provided in RCW 48.43.005, and for individuals who
27 lack or are underinsured for prescription drug coverage. The
28 (~~administrator [director]~~) director may set reasonable fees,
29 including enrollment fees, to cover administrative costs attributable
30 to participation in the prescription drug consortium.

31 (3) The state health care authority is authorized to adopt rules
32 implementing chapter 129, Laws of 2005.

33 NEW SECTION. **Sec. 3.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

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