
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, Liias, 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; amending RCW 70.14.060; and adding a new
3 section to chapter 70.14 RCW.

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

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

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

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

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

19 (3) For generic prescription drugs that the authority has entered
20 into a partnership under this section:

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

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

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

10 (5) For purposes of this section, the following definitions
11 apply:

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

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

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

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

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

31 (1)(a) The (~~administrator~~[~~director~~]) director of the state
32 health care authority shall, directly or by contract, adopt policies
33 necessary for establishment of a prescription drug purchasing
34 consortium. The consortium's purchasing activities shall be based
35 upon the evidence-based prescription drug program established under
36 RCW 70.14.050. (~~State~~) Except as provided in section 1 of this act
37 or exempted under (b) of this subsection, state purchased health care
38 programs as defined in RCW 41.05.011 shall purchase prescription
39 drugs through the consortium for those prescription drugs that are

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

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

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

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

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

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