

ESSB 5892 - H COMM AMD

By Committee on Ways & Means

ADOPTED 04/21/2009

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 69.41.190 and 2006 c 233 s 1 are each amended to read  
4 as follows:

5 (1)(a) Except as provided in subsection (2) of this section, any  
6 pharmacist filling a prescription under a state purchased health care  
7 program as defined in RCW 41.05.011(2) shall substitute, where  
8 identified, a preferred drug for any nonpreferred drug in a given  
9 therapeutic class, unless the endorsing practitioner has indicated on  
10 the prescription that the nonpreferred drug must be dispensed as  
11 written, or the prescription is for a refill of an antipsychotic,  
12 antidepressant, antiepileptic, chemotherapy, antiretroviral, or  
13 immunosuppressive drug, or for the refill of a  
14 immunomodulator/antiviral treatment for hepatitis C for which an  
15 established, fixed duration of therapy is prescribed for at least  
16 twenty-four weeks but no more than forty-eight weeks, in which case the  
17 pharmacist shall dispense the prescribed nonpreferred drug.

18 ~~((+2))~~ (b) When a substitution is made under (a) of this  
19 subsection (~~((1) of this section)~~), the dispensing pharmacist shall  
20 notify the prescribing practitioner of the specific drug and dose  
21 dispensed.

22 (2)(a) A state purchased health care program may impose limited  
23 restrictions on an endorsing practitioner's authority to write a  
24 prescription to dispense as written only under the following  
25 circumstances:

26 (i) There is statistical or clear data demonstrating the endorsing  
27 practitioner's frequency of prescribing dispensed as written for  
28 nonpreferred drugs varies significantly from the prescribing patterns  
29 of his or her peers;

1        (ii) The medical director of a state purchased health program has:  
2        (A) Presented the endorsing practitioner with data that indicates the  
3        endorsing practitioner's prescribing patterns vary significantly from  
4        his or her peers, (B) provided the endorsing practitioner an  
5        opportunity to explain the variation in his or her prescribing patterns  
6        to those of his or her peers, and (C) if the variation in prescribing  
7        patterns cannot be explained, provided the endorsing practitioner  
8        sufficient time to change his or her prescribing patterns to align with  
9        those of his or her peers; and

10       (iii) The restrictions imposed under (a) of this subsection (2)  
11       must be limited to the extent possible to reduce variation in  
12       prescribing patterns and shall remain in effect only until such time as  
13       the endorsing practitioner can demonstrate a reduction in variation in  
14       line with his or her peers.

15       (b) A state purchased health care program may immediately designate  
16       an available, less expensive, equally effective generic product in a  
17       previously reviewed drug class as a preferred drug, without first  
18       submitting the product to review by the pharmacy and therapeutics  
19       committee established pursuant to RCW 70.14.050.

20       (c) For a patient's first course of treatment within a therapeutic  
21       class of drugs, a state purchased health care program may impose  
22       limited restrictions on endorsing practitioners' authority to write a  
23       prescription to dispense as written, only under the following  
24       circumstances:

25       (i) There is a less expensive, equally effective therapeutic  
26       alternative generic product available to treat the condition;

27       (ii) The drug use review board established under WAC 388-530-4000  
28       reviews and provides recommendations as to the appropriateness of the  
29       limitation;

30       (iii) Notwithstanding the limitation set forth in (c)(ii) of this  
31       subsection (2), the endorsing practitioner shall have an opportunity to  
32       request as medically necessary, that the brand name drug be prescribed  
33       as the first course of treatment;

34       (iv) The state purchased health care program may provide, where  
35       available, prescription, emergency room, diagnosis, and hospitalization  
36       history with the endorsing practitioner; and

37       (v) Specifically for antipsychotic restrictions, the state

1 purchased health care program shall effectively guide good practice  
2 without interfering with the timeliness of clinical decision making.

3 (d) If, within a therapeutic class, there is an equally effective  
4 therapeutic alternative over-the-counter drug available, a state  
5 purchased health care program may designate the over-the-counter drug  
6 as the preferred drug.

7 (e) A state purchased health care program may impose limited  
8 restrictions on endorsing practitioners' authority to prescribe  
9 pharmaceuticals to be dispensed as written for a purpose outside the  
10 scope of their approved labels only under the following circumstances:

11 (i) There is a less expensive, equally effective on-label product  
12 available to treat the condition;

13 (ii) The drug use review board established under WAC 388-530-4000  
14 reviews and provides recommendations as to the appropriateness of the  
15 limitation; and

16 (iii) Notwithstanding the limitation set forth in (e)(ii) of this  
17 subsection (2), the endorsing practitioner shall have an opportunity to  
18 request as medically necessary, that the drug be prescribed for a  
19 covered off-label purpose.

20 (f) The provisions of this subsection related to the definition of  
21 medically necessary, prior authorization procedures and patient appeal  
22 rights shall be implemented in a manner consistent with applicable  
23 federal and state law.

24 (3) Notwithstanding the limitations in subsection (2) of this  
25 section, for refills for an antipsychotic, antidepressant,  
26 antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug,  
27 or for the refill of an immunodulator antiviral treatment for hepatitis  
28 C for which an established, fixed duration of therapy is prescribed for  
29 at least twenty-four weeks by no more than forty-eight weeks, the  
30 pharmacist shall dispense the prescribed nonpreferred drug.

31 NEW SECTION. Sec. 2. This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of the  
33 state government and its existing public institutions, and takes effect  
34 immediately."

35 Correct the title.

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