

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE SENATE BILL 5203**

Chapter 274, Laws of 2021

67th Legislature  
2021 Regular Session

GENERIC PRESCRIPTION DRUGS—PARTNERSHIP AGREEMENTS

EFFECTIVE DATE: July 25, 2021

Passed by the Senate April 21, 2021  
Yeas 28 Nays 21

DENNY HECK

**President of the Senate**

Passed by the House April 7, 2021  
Yeas 66 Nays 31

Laurie Jinkins

**Speaker of the House of  
Representatives**

Approved May 12, 2021 2:55 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5203** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

**Secretary**

FILED

May 12, 2021

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5203**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

**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 partnership agreements with  
9 another state, a group of states, a state agency, a nonprofit  
10 organization, or any other entity to produce, distribute, or purchase  
11 generic prescription drugs and distribute and purchase insulin.  
12 Partnership agreements with governmental entities are exempt from  
13 competitive solicitation requirements in accordance with RCW  
14 39.26.125(10). However, the authority must comply with state  
15 procurement laws related to competitive procurement when purchasing  
16 or entering into purchasing agreements with nongovernmental entities.

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

20            (2) The authority shall only enter into partnerships, in  
21 consultation with other state agencies as necessary, to produce,

1 distribute, or purchase a generic prescription drug or insulin at a  
2 price that results in savings to public and private purchasers and  
3 consumers.

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

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

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

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

16 (5) For purposes of this section, the following definitions  
17 apply:

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

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

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

27 (d) "Purchase" means the acquisition of generic drugs and  
28 insulin. "Purchase" includes, but is not limited to, entering into  
29 contracts with manufacturers on behalf of those dispensing drugs and  
30 other innovative purchasing strategies to help increase access for  
31 Washington citizens to the best price available for insulin and  
32 generic prescription drugs. This subsection should be interpreted  
33 broadly to provide the authority flexibility in how it procures  
34 generic drugs and insulin in order to obtain the best price.

35 (e) "State purchased health care" means medical and health care,  
36 pharmaceuticals, and medical equipment purchased with state and  
37 federal funds by the department of social and health services,  
38 department of health, state health care authority, department of  
39 labor and industries, department of corrections, and department of  
40 veterans affairs. State purchased health care does not include

1 prescription drugs purchased for medical assistance program clients  
2 under chapter 74.09 RCW.

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

5 (1) (a) The (~~administrator~~[~~director~~]) director of the state  
6 health care authority shall, directly or by contract, adopt policies  
7 necessary for establishment of a prescription drug purchasing  
8 consortium. The consortium's purchasing activities shall be based  
9 upon the evidence-based prescription drug program established under  
10 RCW 70.14.050. (~~State~~) Except as provided in section 1 of this act  
11 or exempted under (b) of this subsection, state purchased health care  
12 programs as defined in RCW 41.05.011 shall purchase prescription  
13 drugs through the consortium for those prescription drugs that are  
14 purchased directly by the state and those that are purchased through  
15 reimbursement of pharmacies(~~(, unless exempted under (b) of this~~  
16 ~~subsection))~~). The (~~administrator~~[~~director~~]) director shall not  
17 require any supplemental rebate offered to the health care authority  
18 by a pharmaceutical manufacturer for prescription drugs purchased for  
19 medical assistance program clients under chapter 74.09 RCW be  
20 extended to any other state purchased health care program, or to any  
21 other individuals or entities participating in the consortium. The  
22 (~~administrator~~[~~director~~]) director shall explore joint purchasing  
23 opportunities with other states.

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

31 (2) Participation in the purchasing consortium shall be offered  
32 as an option beginning January 1, 2006. Participation in the  
33 consortium is purely voluntary for units of local government, private  
34 entities, labor organizations, health carriers as provided in RCW  
35 48.43.005, state purchased health care services from or through  
36 health carriers as provided in RCW 48.43.005, and for individuals who  
37 lack or are underinsured for prescription drug coverage. The  
38 (~~administrator~~[~~director~~]) director may set reasonable fees,

1 including enrollment fees, to cover administrative costs attributable  
2 to participation in the prescription drug consortium.

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

5 NEW SECTION. **Sec. 3.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

Passed by the Senate April 21, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

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