

SEVENTEENTH DAY, JANUARY 24, 2024

2024 REGULAR SESSION

SEVENTEENTH DAY

AFTERNOON SESSION

Senate Chamber, Olympia
Wednesday, January 24, 2024

The Senate was called to order at 1:30 p.m. by the President of the Senate, Lt. Governor Heck presiding. The Secretary called the roll and announced to the President that all senators were present.

The Washington State National Guard Color Guard, composed of Master Sergeant Jacob Dille; Sergeant First Class Alex Lacayo; Staff Sergeant Gabriel Gomez; and Airman First Class Andrew Tillotson, presented the Colors.

The President of the Senate, Lt. Governor Denny Heck, led the Senate in the Pledge of Allegiance.

The National Anthem was performed by Sergeant Tricia Scheer, vocalist with the 133rd Army National Guard Band.

Senator Chris Gildon of the 25th Legislative District offered the prayer.

MOTION

On motion of Senator Pedersen the reading of the Journal of the previous day was dispensed with and it was approved.

REPORTS OF STANDING COMMITTEES

January 23, 2024

SB 5494 Prime Sponsor, Senator Wilson, J.: Providing incentives to improve freight railroad infrastructure. Reported by Committee on Business, Financial Services, Gaming & Trade

MAJORITY recommendation: That Substitute Senate Bill No. 5494 be substituted therefor, and the substitute bill do pass. Signed by Senators Stanford, Chair; Dozier, Ranking Member; Boehnke; Gildon; Lovick; MacEwen and Mullet.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Frame, Vice Chair and Hasegawa.

Referred to Committee on Ways & Means.

January 22, 2024

SB 5793 Prime Sponsor, Senator Saldaña: Concerning paid sick leave. Reported by Committee on Labor & Commerce

MAJORITY recommendation: That Substitute Senate Bill No. 5793 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Hansen and Stanford.

MINORITY recommendation: Do not pass. Signed by Senators King, Ranking Member; Braun; MacEwen and Schoesler.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 5798 Prime Sponsor, Senator Kuderer: Extending certain insurance notice requirements. Reported by Committee on Business, Financial Services, Gaming & Trade

MAJORITY recommendation: That Substitute Senate Bill No. 5798 be substituted therefor, and the substitute bill do pass. Signed by Senators Stanford, Chair; Frame, Vice Chair; Dozier, Ranking Member; Boehnke; Gildon; Hasegawa; Lovick; MacEwen and Mullet.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 5806 Prime Sponsor, Senator Kuderer: Concerning the confidentiality of insurance company data. Reported by Committee on Business, Financial Services, Gaming & Trade

MAJORITY recommendation: That Substitute Senate Bill No. 5806 be substituted therefor, and the substitute bill do pass. Signed by Senators Stanford, Chair; Frame, Vice Chair; Dozier, Ranking Member; Boehnke; Gildon; Hasegawa; Lovick; MacEwen and Mullet.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 5810 Prime Sponsor, Senator Saldaña: Clarifying the collective bargaining unit for interpreters providing language access services to certain state agencies. Reported by Committee on Labor & Commerce

MAJORITY recommendation: That Substitute Senate Bill No. 5810 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Hansen; Schoesler and Stanford.

MINORITY recommendation: Do not pass. Signed by Senator MacEwen.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators King, Ranking Member and Braun.

Referred to Committee on Ways & Means.

January 23, 2024

SB 5821 Prime Sponsor, Senator Muzzall: Establishing a uniform standard for creating an established relationship for the purposes of coverage of audio-only telemedicine services. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Cleveland, Chair; Conway; Dhingra; Holy; Padden; Randall and Van De Wege.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 5881 Prime Sponsor, Senator MacEwen: Concerning membership in the public employees' retirement system for certain part-time bus drivers employed full-time by the federal government. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by

Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig; Boehnke; Braun; Conway; Dhingra; Hasegawa; Hunt; Keiser; Muzzall; Pedersen; Randall; Saldaña; Torres; Van De Wege; Wagoner and Wellman.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 5895 Prime Sponsor, Senator Nobles: Concerning collective bargaining for certain employees who are enrolled in academic programs at public institutions of higher education. Reported by Committee on Labor & Commerce

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Hansen and Stanford.

MINORITY recommendation: Do not pass. Signed by Senators Braun; MacEwen and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator King, Ranking Member.

Referred to Committee on Ways & Means.

January 23, 2024

SB 5924 Prime Sponsor, Senator Kuderer: Concerning access to personnel records. Reported by Committee on Labor & Commerce

MAJORITY recommendation: That Substitute Senate Bill No. 5924 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Hansen and Stanford.

MINORITY recommendation: Do not pass. Signed by Senators King, Ranking Member; Braun; MacEwen and Schoesler.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 5935 Prime Sponsor, Senator Stanford: Concerning noncompetition covenants. Reported by Committee on Labor & Commerce

MAJORITY recommendation: That Substitute Senate Bill No. 5935 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Hansen and Stanford.

MINORITY recommendation: Do not pass. Signed by Senators Braun; MacEwen and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator King, Ranking Member.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 5943 Prime Sponsor, Senator Gildon: Developing a resource data tool to connect Washington residents to services and resources. Reported by Committee on Human Services

MAJORITY recommendation: That Substitute Senate Bill No. 5943 be substituted therefor, and the substitute bill do pass. Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Boehnke, Ranking Member; Frame; Nguyen; Warnick and Wilson, J.

Referred to Committee on Ways & Means.

January 22, 2024

SB 5952 Prime Sponsor, Senator Schoesler: Aligning deputy inspector credentials with national standards. Reported by Committee on Labor & Commerce

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun; Hansen; MacEwen; Schoesler and Stanford.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 5960 Prime Sponsor, Senator Frame: Concerning prescription labels for medications used for abortion. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Robinson, Vice Chair; Muzzall, Assistant Ranking Member; Cleveland, Chair; Conway; Dhingra; Holy; Randall and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Senator Padden.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 5983 Prime Sponsor, Senator Liias: Allowing medical assistants with telehealth supervision to provide intramuscular injections for syphilis treatment. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5983 be substituted therefor, and the substitute bill do pass. Signed by Senators Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Cleveland, Chair; Conway; Dhingra; Holy; Padden; Randall and Van De Wege.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 5995 Prime Sponsor, Senator Saldaña: Creating a professional license for spoken language interpreters and translators. Reported by Committee on Labor & Commerce

MAJORITY recommendation: That Substitute Senate Bill No. 5995 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Hansen and Stanford.

MINORITY recommendation: Do not pass. Signed by

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Senators King, Ranking Member; Braun; MacEwen and Schoesler.

Referred to Committee on Rules for second reading.

Referred to Committee on Rules for second reading.

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SB 6028 Prime Sponsor, Senator Braun: Relieving individuals from paying interest on certain unemployment insurance overpayment assessments. Reported by Committee on Labor & Commerce

SB 6151 Prime Sponsor, Senator Randall: Concerning the provision of an ultrasound. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun; Hansen; MacEwen; Schoesler and Stanford.

MAJORITY recommendation: Do pass. Signed by Senators Robinson, Vice Chair; Cleveland, Chair; Conway; Dhingra; Randall and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Senators Rivers, Ranking Member; Muzzall, Assistant Ranking Member and Padden.

Referred to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Holy.

January 23, 2024

SB 6060 Prime Sponsor, Senator Nguyen: Concerning the acceptance of electronic signatures by the public employment relations commission for new organizing petitions. Reported by Committee on Labor & Commerce

Referred to Committee on Rules for second reading.

January 22, 2024

MAJORITY recommendation: That Substitute Senate Bill No. 6060 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Hansen and Stanford.

SB 6166 Prime Sponsor, Senator Saldaña: Extending the pesticide application safety committee. Reported by Committee on Labor & Commerce

MINORITY recommendation: Do not pass. Signed by Senators King, Ranking Member; Braun; MacEwen and Schoesler.

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun; Hansen; MacEwen; Schoesler and Stanford.

Referred to Committee on Rules for second reading.

Referred to Committee on Rules for second reading.

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SB 6089 Prime Sponsor, Senator King: Eliminating certain minimum requirement equivalencies for electrical inspectors. Reported by Committee on Labor & Commerce

SB 6168 Prime Sponsor, Senator Stanford: Renewing Washington's international leadership. Reported by Committee on Business, Financial Services, Gaming & Trade

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun; Hansen; MacEwen; Schoesler and Stanford.

MAJORITY recommendation: That Substitute Senate Bill No. 6168 be substituted therefor, and the substitute bill do pass. Signed by Senators Stanford, Chair; Frame, Vice Chair; Dozier, Ranking Member; Boehnke; Gildon; Lovick; MacEwen and Mullet.

Referred to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Hasegawa.

January 23, 2024

SB 6094 Prime Sponsor, Senator Robinson: Aligning statutory language concerning the retired state employee and retired or disabled school employee health insurance subsidy with the historical interpretation and implementation of the relevant subsidy language in the operating budget. Reported by Committee on Ways & Means

Referred to Committee on Rules for second reading.

January 23, 2024

MAJORITY recommendation: Do pass. Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig; Boehnke; Braun; Conway; Dhingra; Hasegawa; Hunt; Keiser; Muzzall; Pedersen; Randall; Saldaña; Torres; Van De Wege; Wagoner and Wellman.

SB 6178 Prime Sponsor, Senator Randall: Aligning the legend drug act to reflect the prescriptive authority for licensed midwives. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Cleveland, Chair; Conway; Dhingra; Holy; Randall and Van De Wege.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Padden.

Referred to Committee on Rules for second reading.

January 23, 2024

SB 6201 Prime Sponsor, Senator King: Establishing civil penalties for the unlawful sale or supply of alcohol to minors. Reported by Committee on Labor & Commerce

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun; Hansen; MacEwen; Schoesler and Stanford.

Referred to Committee on Rules for second reading.

January 22, 2024

SB 6272 Prime Sponsor, Senator Mullet: Dedicating the state share of cannabis excise tax revenue to counties and cities. Reported by Committee on Labor & Commerce

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun; Hansen; MacEwen; Schoesler and Stanford.

Referred to Committee on Ways & Means.

MOTIONS

On motion of Pedersen, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5924 which had been designated to the Committee on Rules and was referred to the Committee on Ways & Means.

On motion of Senator Pedersen, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR GUBERNATORIAL APPOINTMENTS

January 22, 2024

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

ANDREW J. DRENNEN, reappointed January 22, 2024, for the term ending December 26, 2027, as Member of the Board of Pilotage Commissioners.

Sincerely,

JAY INSLEE, Governor

Referred to Committee on Transportation as Senate Gubernatorial Appointment No. 9448.

MOTION

On motion of Senator Pedersen, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MESSAGE FROM THE SECRETARY OF STATE

CERTIFICATION OF INITIATIVE TO THE LEGISLATURE I-2111

Pursuant to Article II, Section 1 of the Washington State Constitution, RCW 29A.72.230, and WAC 434- 379-010, the Office of the Secretary of State has caused the signatures submitted in support of Initiative to the Legislature No. 2111 to

be examined in the following manner:

1. It was determined that 448,158 signatures were submitted by the sponsors of the initiative. A random sample of 13,445 signatures was taken from those submitted;
2. Each sampled signature was examined to determine if the signer was a registered voter of the state, if the signature was reasonably similar to the one appearing on the record of that voter, and if the same signature appeared more than once in the sample. We found 10,868 valid signatures, 2,566 signatures that were invalid and 11 pairs of duplicated signatures in the sample;
3. We calculated an allowance for the chance error of sampling (76) by multiplying the square root of the number of invalid signatures by 1.5;
4. We estimated the upper limit of the number of signatures on the initiative petition which were invalid (88,064) by dividing the sum of the number of invalid signatures in the sample and allowance for the chance of error of sampling by the sampling ratio;
5. We determined the maximum allowable number of duplicate pairs of signatures on the petition (35,578) by subtracting the sum of the number of signatures required by Article II, Section 1 of the Washington State Constitution {324,516} and the estimate of the upper limit of the number of invalid signatures on the petition from the number of signatures submitted;
6. We determined the expected number of duplicate pairs of signatures in the sample (32) by multiplying the square of the sampling ratio by the maximum allowable number of pairs of signatures on the initiative petition;
7. We determined the acceptable number of duplicate pairs of signatures in the sample (23) by subtracting 1.65 times the square root of the expected number of pairs of signatures in the sample from the expected number of pairs of signatures in the sample; and
8. The number of duplicate pairs of signatures in the sample is less than the acceptable number of duplicate pairs of signatures in the sample.

Therefore, I hereby declare Initiative to the Legislature No. 2111 to contain sufficient signatures.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the State of Washington this 24th day of January, 2024.

/s/ Steve R Hobbs
Steve Hobbs
Secretary of State

Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON
Administration Division
PO Box 40100 • Olympia, WA 98504-0100 • (360) 753-6200

June 2, 2023

The Honorable Steve Hobbs
Elections Division
ATTN: Initiative and Referendum
POBox40220
Olympia, WA 98504-0220

Re: Initiative No. 2111

Dear Secretary Hobbs:

SEVENTEENTH DAY, JANUARY 24, 2024

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Pursuant to RCW 29A.72.060, we supply herewith the ballot title and ballot measure summary for Initiative No. 2111 to the Legislature (an act relating to any type of income tax).

SB 6300 by Senators Randall and Nobles; by request of Student Achievement Council

AN ACT Relating to permitting beneficiaries of public assistance programs to automatically qualify as income-eligible for the purpose of receiving the Washington college grant; and amending RCW 28B.92.200 and 28B.92.225.

Referred to Committee on Higher Education & Workforce Development.

SB 6301 by Senators Lovick and Dhingra

AN ACT Relating to basic law enforcement academy; and amending RCW 43.101.190.

Referred to Committee on Ways & Means.

SB 6302 by Senators Liias and King

AN ACT Relating to creating a Washington state supply chain competitiveness infrastructure program; reenacting and amending RCW 43.79A.040, 43.79A.040, and 43.79A.040; adding new sections to chapter 43.31 RCW; creating a new section; providing effective dates; and providing expiration dates.

Referred to Committee on Transportation.

SB 6303 by Senator Nguyen

AN ACT Relating to providing tax incentives to encourage energy storage system and component parts manufacturing in Washington; amending RCW 82.89.010; amending 2022 c 185 s 11 (uncodified); adding new sections to chapter 82.04 RCW; and creating new sections.

Referred to Committee on Environment, Energy & Technology.

SJM 8010 by Senators Liias and Boehnke

Affirming Washington's support and commitment to the extension of the affordable connectivity program.

Referred to Committee on Environment, Energy & Technology.

SJR 8210 by Senator Mullet

Amending the Constitution to create a term limit for the office of the governor.

Referred to Committee on State Government & Elections.

BALLOT TITLE

Statement of Subject: Initiative Measure No. 2111 concerns taxes.

Concise Description: This measure would prohibit the state, counties, cities, and other local jurisdictions from imposing or collecting income taxes, defined as having the same meaning as "gross income" in the Internal Revenue Code.

Should this measure be enacted into law? Yes [] No []

BALLOT MEASURE SUMMARY

This measure would prohibit the state, counties, cities, and other local jurisdictions from imposing or collecting income taxes, defined as having the same meaning as "gross income" in the Internal Revenue Code.

Sincerely,
s/*Jeffrey T Even*
JEFFREY T. EVEN
Deputy Solicitor General

Initiative Measure No. 2111
Filed May 19, 2023

AN ACT Relating to establishing that neither the state nor any of its political subdivisions may charge any individual person a tax based on personal income; and adding a new chapter to Title 1 RCW.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION, Sec. 1. Neither the state nor any county, city, or other local jurisdiction in the state of Washington may tax any individual person on any form of personal income. For the purposes of this chapter, "income" has the same meaning as "gross income" in 26 U.S.C. Sec. 61.

NEW SECTION, Sec. 2. Section 1 of this act constitutes a new chapter in Title 1 RCW.

MOTION

On motion of Senator Pedersen, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SI 2109 by People of the State of Washington
Regulating permanent cosmetics.

Referred to Committee on Ways & Means.

SB 6299 by Senators Stanford and Keiser

AN ACT Relating to protecting employee rights in the workplace with regards to the use of digital technology; and adding a new section to chapter 49.44 RCW.

Referred to Committee on Labor & Commerce.

MOTIONS

On motion of Senator Pedersen, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 6302 which had been designated to the Committee on Business, Financial Services, Gaming & Trade and was referred to the Committee on Transportation.

On motion of Senator Pedersen, the Senate advanced to the eighth order of business.

Senator Randall moved adoption of the following resolution:

SENATE RESOLUTION
8661

By Senators Randall, Conway, Kuderer, Stanford, and

Wagoner

WHEREAS, More than 8,000 men and women of the Washington National Guard continue to serve the country as guardians of American interests at home and abroad; and

WHEREAS, These recognized leaders in state, regional, and national preparedness, who reside in nearly every legislative district throughout Washington, volunteer their time and put personal lives aside when the needs of the people of Washington state arise; and

WHEREAS, The Guard always answers the state's call in response to all emergency efforts such as natural disasters to protect lives, essential infrastructure, and property; and

WHEREAS, For more than 18 months, 1,200 service members from the Washington National Guard supported state agencies, local jurisdictions, tribes, and nonprofit organizations in responding to the COVID-19 pandemic in order to save lives and relieve human suffering; and

WHEREAS, In 2022, the Guard deployed to Lewis county to provide support to the communities dealing with rising waters, and just a week later deployed to Leavenworth to assist digging out the small mountain community that was hit with record snow fall; and

WHEREAS, The Guard continues to train for adaptation, capability, and capacity to react to the rising challenges in a rapidly changing world that pose a threat to United States national security at home and abroad, including cyber threats; and

WHEREAS, Washington National Guard soldiers and airmen and airwomen continue to provide critical support for federal missions with members deployed to Jordan, Poland, Germany, the Kingdom of Thailand, and Malaysia; and

WHEREAS, The Guard continues to improve the lives of Washington's young adults, many on the brink of dropping out of school, through its Washington Youth Challenge Academy; and

WHEREAS, The Guard adds value to communities by opening its Readiness Centers for community and youth activities, and uses these facilities to enhance education, add to quality of life, and increase economic vitality;

NOW, THEREFORE, BE IT RESOLVED, That the Washington state Senate express its thanks and appreciation to the devoted families and dedicated employers of our Washington National Guard soldiers and airmen and airwomen for their support, without whom the Guard's missions could not be successful; and

BE IT FURTHER RESOLVED, That the Senate recognize the value and dedication of a strong Washington National Guard to the viability, economy, safety, security, and well-being of this state, both through the outstanding performance of its state emergency and disaster relief mission, and through the continued benefit to local communities by the presence of productively employed, drug-free, well-equipped, and trained Guard units and the Readiness Centers and Armories that house them; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Adjutant General of the Washington National Guard, the Governor of the state of Washington, the Secretaries of the United States Army and Air Force, and the President of the United States.

Senator Randall spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8661.

The motion by Senator Randall carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Major General Bret Daugherty, Adjutant General of the Washington State National Guard, who was seated at the rostrum and members and representatives of the Washington State National Guard present in the gallery.

MOTION

On motion of Senator Pedersen, the Senate reverted to the seventh order of business.

THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Valdez moved that Robert L. Nellams, Senate Gubernatorial Appointment No. 9162, be confirmed as a member of the Central Washington University Board of Trustees.

Senator Valdez spoke in favor of the motion.

APPOINTMENT OF ROBERT L. NELLAMS

The President declared the question before the Senate to be the confirmation of Robert L. Nellams, Senate Gubernatorial Appointment No. 9162, as a member of the Central Washington University Board of Trustees.

The Secretary called the roll on the confirmation of Robert L. Nellams, Senate Gubernatorial Appointment No. 9162, as a member of the Central Washington University Board of Trustees and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Robert L. Nellams, Senate Gubernatorial Appointment No. 9162, having received the constitutional majority was declared confirmed as a member of the Central Washington University Board of Trustees.

THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Nobles moved that Tong Zhu, Senate Gubernatorial Appointment No. 9236, be confirmed as a member of the Clover Park Technical College Board of Trustees.

Senator Nobles spoke in favor of the motion.

APPOINTMENT OF TONG ZHU

The President declared the question before the Senate to be the confirmation of Tong Zhu, Senate Gubernatorial Appointment No. 9236, as a member of the Clover Park Technical College Board of Trustees.

The Secretary called the roll on the confirmation of Tong Zhu, Senate Gubernatorial Appointment No. 9236, as a member of the

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Clover Park Technical College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Tong Zhu, Senate Gubernatorial Appointment No. 9236, having received the constitutional majority was declared confirmed as a member of the Clover Park Technical College Board of Trustees.

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kuderer moved that Pradnya Desh, Senate Gubernatorial Appointment No. 9242, be confirmed as a member of the Bellevue College Board of Trustees.

Senator Kuderer spoke in favor of the motion.

APPOINTMENT OF PRADNYA DESH

The President declared the question before the Senate to be the confirmation of Pradnya Desh, Senate Gubernatorial Appointment No. 9242, as a member of the Bellevue College Board of Trustees.

The Secretary called the roll on the confirmation of Pradnya Desh, Senate Gubernatorial Appointment No. 9242, as a member of the Bellevue College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Pradnya Desh, Senate Gubernatorial Appointment No. 9242, having received the constitutional majority was declared confirmed as a member of the Bellevue College Board of Trustees.

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Mullet moved that Robert T. Mitchell, Senate Gubernatorial Appointment No. 9306, be confirmed as a member of the Workforce Training and Education Coordinating Board.

Senator Mullet spoke in favor of the motion.

APPOINTMENT OF ROBERT T. MITCHELL

The President declared the question before the Senate to be the

confirmation of Robert T. Mitchell, Senate Gubernatorial Appointment No. 9306, as a member of the Workforce Training and Education Coordinating Board.

The Secretary called the roll on the confirmation of Robert T. Mitchell, Senate Gubernatorial Appointment No. 9306, as a member of the Workforce Training and Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Robert T. Mitchell, Senate Gubernatorial Appointment No. 9306, having received the constitutional majority was declared confirmed as a member of the Workforce Training and Education Coordinating Board.

MOTION

At 2:04 p.m., on motion of Senator Pedersen, the Senate was declared to be at ease subject to the call of the President.

Senator Hasegawa announced a meeting of the Democratic Caucus immediately upon going at ease.

Senator Warnick announced a meeting of the Republican Caucus immediately upon going at ease.

The Senate was called to order at 2:42 p.m. by the President of the Senate, Lt. Governor Heck presiding.

MOTION

On motion of Senator Pedersen, the Senate reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 5508, by Senators Short, Shewmake, Warnick, Wilson, J., and Wilson, L.

Promoting local agriculture through greenhouses.

The measure was read the second time.

MOTION

On motion of Senator Short, the rules were suspended, Senate Bill No. 5508 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Short spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5508.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5508 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wilson, C., Wilson, J. and Wilson, L.

Absent: Senator Wellman

SENATE BILL NO. 5508, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5787, by Senators Pedersen, Padden, Mullet, Nobles, and Salomon

Enacting the uniform electronic estate planning documents act.

MOTIONS

On motion of Senator Pedersen, Substitute Senate Bill No. 5787 was substituted for Senate Bill No. 5787 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pedersen, the rules were suspended, Substitute Senate Bill No. 5787 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pedersen and Padden spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5787.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5787 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

SUBSTITUTE SENATE BILL NO. 5787, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5271, by Senators Cleveland, Robinson, Kuderer, Nobles, Wellman, and Wilson, C.

Protecting patients in facilities regulated by the department of health by establishing uniform enforcement tools.

MOTIONS

On motion of Senator Cleveland, Substitute Senate Bill No.

5271 was substituted for Senate Bill No. 5271 and the substitute bill was placed on the second reading and read the second time.

Senator Cleveland moved that the following striking amendment no. 485 by Senator Cleveland be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.46.010 and 2000 c 93 s 30 are each amended to read as follows:

(1) "Birthing center" or "childbirth center" means any health facility, not part of a hospital or in a hospital, that provides facilities and staff to support a birth service to low-risk maternity clients: PROVIDED, HOWEVER, That this chapter shall not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association, or its successor.

(2) "Department" means the state department of health.

(3) "Immediate jeopardy" means a situation in which the birthing center's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(4) "Low-risk" means normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health.

~~((4))~~ (5) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

Sec. 2. RCW 18.46.050 and 1997 c 58 s 823 are each amended to read as follows:

(1) ~~(The department may deny, suspend, or revoke a license in any case in which it finds that there has been failure or refusal to comply with the requirements established under this chapter or the rules adopted under it.~~

~~(2) The department shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.~~

~~RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding but shall not apply to actions taken under subsection (2) of this section.)~~ In any case in which the department finds that a birthing center has failed or refused to comply with the requirements of this chapter, the standards or rules adopted under this chapter, or other applicable state or federal statutes or rules regulating birthing centers, the department may take one or more of the actions identified in this section, except as otherwise limited in this section.

(a) When the department determines the birthing center has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the birthing center failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the birthing center cannot demonstrate to the department that it has access to sufficient internal expertise. If the department determines that the violations constitute immediate

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jeopardy, the conditions may be imposed immediately in accordance with subsection (2) of this section.

(b) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to \$3,000 per violation on a birthing center licensed under this chapter when the department determines the birthing center has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the birthing center failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(i) Proceeds from these fines may only be used by the department to offset costs associated with licensing and enforcement of birthing centers.

(ii) The department shall adopt in rules under this chapter specific fine amounts in relation to the severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance.

(iii) If a birthing center is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(c) The department may suspend a specific category or categories of services or care or birthing rooms within the birthing center as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide a birthing center written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The birthing center shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the birthing center may not provide the services in the category or categories subject to the limited stop service to any new or existing patients, unless otherwise allowed by the department, until the limited stop service is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the birthing center if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the birthing center has taken intermediate action to address the immediate jeopardy; and

(B) The birthing center establishes the ability to maintain correction of the violation previously found deficient.

(d) The department may suspend new admissions to the birthing center by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the birthing center.

(i) Prior to imposing a stop placement, the department shall provide a birthing center written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The birthing center shall have 24 hours from notification to develop and implement a department-approved

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plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the birthing center may not admit any new patients until the stop placement is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the birthing center if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the birthing center has taken intermediate action to address the immediate jeopardy; and

(B) The birthing center establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may deny an application for a license or suspend, revoke, or refuse to renew a license.

(2) Except as otherwise provided, RCW 43.70.115 governs notice of actions taken by the department under subsection (1) of this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the department's notice, be served on and received by the department within 28 days of the birthing center's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(3) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop service, stop placement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(a) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(c) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(d) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request

an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

(4) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension.

(a) When the department imposes an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate. At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

NEW SECTION. Sec. 3. A new section is added to chapter 18.46 RCW to read as follows:

(1) The department may give written notice to cease and desist to any person whom the department has reason to believe is engaged in the unlicensed operation of a birthing center.

(2)(a) Except as otherwise provided in this section, the requirement to cease and desist unlicensed operation is effective 20 days after the person receives the notice.

(b) The department may make the date the action is effective sooner than 20 days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice to cease and desist.

(3) The person to whom the notice to cease and desist is issued may request an adjudicative proceeding to contest the notice. The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting the notice, include a copy of the notice, and be served on and received by the department within 20 days from the date

the person receives the notice to cease and desist.

(4)(a) If the department gives a person 20 days' notice to cease and desist and the person requests an adjudicative proceeding before its effective date, the department shall not implement the notice until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the notice while the proceedings are pending if the respondent causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than 20 days' notice to cease and desist and the respondent timely files a request for an adjudicative proceeding, the department may implement the cease and desist on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(5) The department may assess a civil fine not exceeding \$5,000 for each day a person operates a birthing center without a valid license.

(a) The department shall give written notice to the person against whom it assesses a civil fine.

(b) Except as otherwise provided in (c) and (d) of this subsection, the civil fine is due and payable 20 days after receipt.

(c) The person against whom the department assesses a civil fine has the right to request an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request must be in writing, state the basis for contesting the fine, include a copy of the notice, be served on and received by the department within 20 days of the person receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(d) If the person files a timely and sufficient request for adjudicative proceeding, the department shall not implement the fine until the final order has been served.

(6) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating a birthing center without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. A final notice to cease and desist is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the final notice to cease and desist or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

Sec. 4. RCW 18.46.130 and 2000 c 93 s 39 are each amended to read as follows:

(1) Notwithstanding the existence or use of any other remedy, the department may in the manner provided by law, upon the advice of the attorney general who shall represent the department in all proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the ~~advertisement,~~ operation ~~((#))~~, maintenance, management, or opening of a birthing center not licensed under this chapter.

(2) The injunction shall not relieve the person operating a birth center without a license from criminal prosecution, or the imposition of a civil fine under section 3 of this act, but the remedy by injunction shall be in addition to any criminal liability or civil fine. A person that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than \$25,000, which shall be deposited in the department's local fee account. For the purpose of this section, the superior court issuing any injunction shall retain jurisdiction and the cause shall be continued, and in such cases the attorney

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general acting in the name of the state may petition for the recovery of civil penalties. All fines, forfeitures, and penalties collected or assessed by a court because of a violation of RCW 18.46.020 shall be deposited in the department's local fee account.

Sec. 5. RCW 70.42.010 and 1989 c 386 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of health ~~((if enacted, otherwise the department of social and health services)).~~

(2) "Designated test site supervisor" means the available individual who is responsible for the technical functions of the test site and who meets the department's qualifications set out in rule by the department.

(3) "Immediate jeopardy" means a situation in which the medical test site's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(4) "Person" means any individual, or any public or private organization, agent, agency, corporation, firm, association, partnership, or business.

~~((4))~~ (5) "Proficiency testing program" means an external service approved by the department which provides samples to evaluate the accuracy, reliability and performance of the tests at each test site.

~~((5))~~ (6) "Quality assurance" means a comprehensive set of policies, procedures, and practices to assure that a test site's results are accurate and reliable. Quality assurance means a total program of internal and external quality control, equipment preventative maintenance, calibration, recordkeeping, and proficiency testing evaluation, including a written quality assurance plan.

~~((6))~~ (7) "Quality control" means internal written procedures and day-to-day analysis of laboratory reference materials at each test site to insure precision and accuracy of test methodology, equipment, and results.

~~((7))~~ (8) "Test" means any examination or procedure conducted on a sample taken from the human body, including screening.

~~((8))~~ (9) "Test site" means any facility or site, public or private, which analyzes materials derived from the human body for the purposes of health care, treatment, or screening. A test site does not mean a facility or site, including a residence, where a test approved for home use by the federal food and drug administration is used by an individual to test himself or herself without direct supervision or guidance by another and where this test is not part of a commercial transaction.

Sec. 6. RCW 70.42.130 and 1989 c 386 s 14 are each amended to read as follows:

Under this chapter, and chapter 34.05 RCW, the department may place conditions on a license which limit or cancel a test site's authority to conduct any of the tests or groups of tests of any licensee who:

(1) Fails or refuses to comply with the requirements of this chapter ~~((or))~~ the rules or standards adopted under this chapter, or other applicable state or federal statutes or rules regulating medical test sites;

(2) Has knowingly or with reason to know made a false statement of a material fact in the application for a license or in any data attached thereto or in any record required by the department;

(3) Refuses to allow representatives of the department to examine any book, record, or file required by this chapter to be maintained;

(4) Willfully prevented, interfered with, or attempted to impede in any way the work of a representative of the department;

(5) Willfully prevented or interfered with preservation of evidence of a known violation of this chapter or the rules adopted under this chapter; or

(6) Misrepresented, or was fraudulent in, any aspect of the licensee's business.

NEW SECTION. Sec. 7. A new section is added to chapter 70.42 RCW to read as follows:

(1) The department may prohibit a specific category or categories of services within the medical test site as related to noncompliance with the requirements of this chapter or the standards or rules adopted under this chapter by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(2) Prior to imposing a limited stop service, the department shall provide the medical test site a written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The medical test site shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(3) When the department imposes a limited stop service, the medical test site may not perform any new testing in the category or categories subject to the limited stop service until the limited stop service is terminated.

(4) The department shall conduct a follow-up inspection within five business days or within the time period requested by the medical test site if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(5) The limited stop service shall be terminated when:

(a) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the medical test site has taken intermediate action to address the immediate jeopardy; and

(b) The medical test site establishes the ability to maintain correction of the violation previously found deficient.

(6) Except as otherwise provided, RCW 43.70.115 governs notice of actions taken by the department under subsection (1) of this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the department's notice, be served on and received by the department within 28 days of the medical test site's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(7) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop service, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(a) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the

burden of demonstrating that more probably than not there is an immediate jeopardy.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(c) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(d) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

(8) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate limited stop service, immediate suspension, or immediate imposition of conditions.

(a) When the department imposes an immediate limited stop service, immediate suspension, or immediate imposition of conditions for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate limited stop service, immediate suspension, or immediate imposition of conditions for failure to cooperate. At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate limited stop service, immediate suspension, or immediate imposition of conditions for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

NEW SECTION. Sec. 8. A new section is added to chapter 70.42 RCW to read as follows:

(1) The department may give written notice to cease and desist to any person whom the department has reason to believe is engaged in the unlicensed operation of a medical test site.

(2)(a) Except as otherwise provided in this section, the requirement to cease and desist unlicensed operation is effective 20 days after the person receives the notice.

(b) The department may make the date the action is effective sooner than 20 days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice to cease and desist.

(3) The person to whom the notice to cease and desist is issued may request an adjudicative proceeding to contest the notice. The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting the notice, include a copy of the notice, and be served on and received by the department within 20 days from the date the person receives the notice to cease and desist.

(4)(a) If the department gives a person 20 days' notice to cease and desist and the person requests an adjudicative proceeding before its effective date, the department shall not implement the notice until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the notice while the proceedings are pending if the respondent causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than 20 days' notice to cease and desist and the respondent timely files a request for an adjudicative proceeding, the department may implement the cease and desist on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(5) The department may assess a civil fine not exceeding \$5,000 for each day a person operates a medical test site without a valid license.

(a) The department shall give written notice to the person against whom it assesses a civil fine.

(b) Except as otherwise provided in (c) and (d) of this subsection, the civil fine is due and payable 20 days after receipt.

(c) The person against whom the department assesses a civil fine has the right to request an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request must be in writing, state the basis for contesting the fine, include a copy of the notice, be served on and received by the department within 20 days of the person receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(d) If the person files a timely and sufficient request for adjudicative proceeding, the department shall not implement the fine until the final order has been served.

(6) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating a medical test site without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. A final notice to cease and desist is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the final notice to cease and desist or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

Sec. 9. RCW 70.42.180 and 1989 c 386 s 19 are each amended to read as follows:

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(1) Notwithstanding the existence or use of any other remedy, the department may, in the manner provided by law and upon the advice of the attorney general, who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the advertising, operating, maintaining, managing, or opening of a test site without a license under this chapter. It is a misdemeanor to own, operate, or maintain a test site without a license.

(2) The injunction shall not relieve the person operating a medical test site without a license from criminal prosecution, or the imposition of a civil fine under section 8 of this act, but the remedy by injunction shall be in addition to any criminal liability or civil fine. A person that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than \$25,000, which shall be deposited in the department's local fee account. For the purpose of this section, the superior court issuing any injunction shall retain jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties. All fines, forfeitures, and penalties collected or assessed by a court because of a violation of RCW 70.42.020 shall be deposited in the department's local fee account.

Sec. 10. RCW 70.127.010 and 2011 c 89 s 13 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Administrator" means an individual responsible for managing the operation of an agency.

(2) "Department" means the department of health.

(3) "Director of clinical services" means an individual responsible for nursing, therapy, nutritional, social, and related services that support the plan of care provided by in-home health and hospice agencies.

(4) "Family" means individuals who are important to, and designated by, the patient or client and who need not be relatives.

(5) "Home care agency" means a person administering or providing home care services directly or through a contract arrangement to individuals in places of temporary or permanent residence. A home care agency that provides delegated tasks of nursing under RCW 18.79.260(3)(e) is not considered a home health agency for the purposes of this chapter.

(6) "Home care services" means nonmedical services and assistance provided to ill, disabled, or vulnerable individuals that enable them to remain in their residences. Home care services include, but are not limited to: Personal care such as assistance with dressing, feeding, and personal hygiene to facilitate self-care; homemaker assistance with household tasks, such as housekeeping, shopping, meal planning and preparation, and transportation; respite care assistance and support provided to the family; or other nonmedical services or delegated tasks of nursing under RCW 18.79.260(3)(e).

(7) "Home health agency" means a person administering or providing two or more home health services directly or through a contract arrangement to individuals in places of temporary or permanent residence. A person administering or providing nursing services only may elect to be designated a home health agency for purposes of licensure.

(8) "Home health services" means services provided to ill, disabled, or vulnerable individuals. These services include but are not limited to nursing services, home health aide services, physical therapy services, occupational therapy services, speech therapy services, respiratory therapy services, nutritional services, medical social services, and home medical supplies or equipment services.

(9) "Home health aide services" means services provided by a home health agency or a hospice agency under the supervision of a registered nurse, physical therapist, occupational therapist, or speech therapist who is employed by or under contract to a home health or hospice agency. Such care includes ambulation and exercise, assistance with self-administered medications, reporting changes in patients' conditions and needs, completing appropriate records, and personal care or homemaker services.

(10) "Home medical supplies" or "equipment services" means diagnostic, treatment, and monitoring equipment and supplies provided for the direct care of individuals within a plan of care.

(11) "Hospice agency" means a person administering or providing hospice services directly or through a contract arrangement to individuals in places of temporary or permanent residence under the direction of an interdisciplinary team composed of at least a nurse, social worker, physician, spiritual counselor, and a volunteer.

(12) "Hospice care center" means a homelike, noninstitutional facility where hospice services are provided, and that meets the requirements for operation under RCW 70.127.280.

(13) "Hospice services" means symptom and pain management provided to a terminally ill individual, and emotional, spiritual, and bereavement support for the individual and family in a place of temporary or permanent residence, and may include the provision of home health and home care services for the terminally ill individual.

(14) "Immediate jeopardy" means a situation in which the in-home services agency's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(15) "In-home services agency" means a person licensed to administer or provide home health, home care, hospice services, or hospice care center services directly or through a contract arrangement to individuals in a place of temporary or permanent residence.

~~((45))~~ (16) "Person" means any individual, business, firm, partnership, corporation, company, association, joint stock association, public or private agency or organization, or the legal successor thereof that employs or contracts with two or more individuals.

~~((46))~~ (17) "Plan of care" means a written document based on assessment of individual needs that identifies services to meet these needs.

~~((47))~~ (18) "Quality improvement" means reviewing and evaluating appropriateness and effectiveness of services provided under this chapter.

~~((48))~~ (19) "Service area" means the geographic area in which the department has given prior approval to a licensee to provide home health, hospice, or home care services.

~~((49))~~ (20) "Social worker" means a person with a degree from a social work educational program accredited and approved as provided in RCW 18.320.010 or who meets qualifications provided in 42 C.F.R. Sec. 418.114 as it existed on January 1, 2012.

~~((20))~~ (21) "Survey" means an inspection conducted by the department to evaluate and monitor an agency's compliance with this chapter.

Sec. 11. RCW 70.127.170 and 2003 c 140 s 10 are each amended to read as follows:

~~((Pursuant to chapter 34.05 RCW and RCW 70.127.180(3), the department may deny, restrict, condition, modify, suspend, or revoke a license under this chapter or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, or require a refund of any~~

~~amounts billed to, and collected from, the consumer or third party payor in any case in which it finds that the licensee, or any applicant, officer, director, partner, managing employee, or owner of ten percent or more of the applicant's or licensee's assets.)~~ The department is authorized to take any of the actions identified in section 12 of this act against an in-home services agency's license in any case in which it finds that the licensee:

(1) Failed or refused to comply with the requirements of this chapter ~~((or the)),~~ standards or rules adopted under this chapter, or other applicable state or federal statutes or rules regulating the facility or agency;

(2) Was the holder of a license issued pursuant to this chapter that was revoked for cause and never reissued by the department, or that was suspended for cause and the terms of the suspension have not been fulfilled and the licensee has continued to operate;

(3) Has knowingly or with reason to know made a misrepresentation of, false statement of, or failed to disclose, a material fact to the department in an application for the license or any data attached thereto or in any record required by this chapter or matter under investigation by the department, or during a survey, or concerning information requested by the department;

(4) Refused to allow representatives of the department to inspect any book, record, or file required by this chapter to be maintained or any portion of the licensee's premises;

(5) Willfully prevented, interfered with, or attempted to impede in any way the work of any representative of the department and the lawful enforcement of any provision of this chapter. This includes but is not limited to: Willful misrepresentation of facts during a survey, investigation, or administrative proceeding or any other legal action; or use of threats or harassment against any patient, client, or witness, or use of financial inducements to any patient, client, or witness to prevent or attempt to prevent him or her from providing evidence during a survey or investigation, in an administrative proceeding, or any other legal action involving the department;

(6) Willfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of this chapter or the rules adopted under this chapter;

(7) Failed to pay any civil monetary penalty assessed by the department pursuant to this chapter within ~~((ten))~~ 10 days after the assessment becomes final;

(8) Used advertising that is false, fraudulent, or misleading;

(9) Has repeated incidents of personnel performing services beyond their authorized scope of practice;

(10) Misrepresented or was fraudulent in any aspect of the conduct of the licensee's business;

(11) Within the last five years, has been found in a civil or criminal proceeding to have committed any act that reasonably relates to the person's fitness to establish, maintain, or administer an agency or to provide care in the home of another;

(12) Was the holder of a license to provide care or treatment to ill individuals, ~~((disabled, or))~~ vulnerable individuals, or individuals with disabilities that was denied, restricted, not renewed, surrendered, suspended, or revoked by a competent authority in any state, federal, or foreign jurisdiction. A certified copy of the order, stipulation, or agreement is conclusive evidence of the denial, restriction, nonrenewal, surrender, suspension, or revocation;

(13) ~~((Violated any state or federal statute, or administrative rule regulating the operation of the agency;~~

~~((14)))~~ Failed to comply with an order issued by the secretary or designee;

~~((15)))~~ (14) Aided or abetted the unlicensed operation of an in-home services agency;

~~((16)))~~ (15) Operated beyond the scope of the in-home services agency license;

~~((17)))~~ (16) Failed to adequately supervise staff to the extent that the health or safety of a patient or client was at risk;

~~((18)))~~ (17) Compromised the health or safety of a patient or client, including, but not limited to, the individual performing services beyond their authorized scope of practice;

~~((19)))~~ (18) Continued to operate after license revocation, suspension, or expiration, or operating outside the parameters of a modified, conditioned, or restricted license;

~~((20)))~~ (19) Failed or refused to comply with chapter 70.02 RCW;

~~((21)))~~ (20) Abused, neglected, abandoned, or financially exploited a patient or client as these terms are defined in RCW 74.34.020;

~~((22)))~~ (21) Misappropriated the property of an individual;

~~((23)))~~ (22) Is unqualified or unable to operate or direct the operation of the agency according to this chapter and the rules adopted under this chapter;

~~((24)))~~ (23) Obtained or attempted to obtain a license by fraudulent means or misrepresentation; or

~~((25)))~~ (24) Failed to report abuse or neglect of a patient or client in violation of chapter 74.34 RCW.

NEW SECTION. Sec. 12. A new section is added to chapter 70.127 RCW to read as follows:

(1) When the department determines the in-home services agency has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the in-home services agency failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the in-home services agency cannot demonstrate to the department that it has access to sufficient internal expertise. If the department determines that the violations constitute immediate jeopardy, the conditions may be imposed immediately in accordance with subsection (5) of this section.

(2)(a) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to \$3,000 per violation on an in-home services agency licensed under this chapter when the department determines the in-home services agency has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the in-home services agency failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(b) Proceeds from these fines may only be used by the department to offset costs associated with licensing and enforcement of in-home services agencies.

(c) The department shall adopt in rules under this chapter specific fine amounts in relation to the severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance.

(d) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(3) The department may suspend a specific category or categories of services or care that the in-home services agency provides as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(a) Prior to imposing a limited stop service, the department

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shall provide an in-home services agency written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The in-home services agency shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(b) When the department imposes a limited stop service, the in-home services agency may not provide the services in the category or categories subject to the limited stop service to any new or existing individuals until the limited stop service is terminated.

(c) The department shall conduct a follow-up inspection within five business days or within the time period requested by the in-home services agency if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(d) The limited stop service shall be terminated when:

(i) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the in-home services agency has taken intermediate action to address the immediate jeopardy; and

(ii) The in-home services agency establishes the ability to maintain correction of the violation previously found deficient.

(4) The department may suspend new admissions to an in-home services agency that qualifies as a hospice care center by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of services or care that the hospice care center provides.

(a) Prior to imposing a stop placement, the department shall provide an in-home services agency that qualifies as a hospice care center written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The hospice care center shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the stop placement.

(b) When the department imposes a stop placement, the hospice care center may not admit any new patients until the stop placement is terminated.

(c) The department shall conduct a follow-up inspection within five business days or within the time period requested by the hospice care center if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(d) The stop placement shall be terminated when:

(i) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the hospice care center has taken intermediate action to address the immediate jeopardy; and

(ii) The hospice care center establishes the ability to maintain correction of the violation previously found deficient.

(5) The department may deny an application for a license or suspend, revoke, or refuse to renew a license.

NEW SECTION. Sec. 13. A new section is added to chapter 70.127 RCW to read as follows:

(1) Except as otherwise provided, RCW 43.70.115 governs notice of the imposition of conditions on a license, a limited stop

service, stop placement, or the suspension, revocation, or refusal to renew a license and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the department's notice, be served on and received by the department within 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(2) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop service, stop placement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(a) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is immediate jeopardy.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(c) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(d) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

(3) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension.

(a) When the department imposes an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate. At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(b) At the show cause hearing, the presiding officer may

consider the notice and documents supporting the immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

Sec. 14. RCW 70.127.213 and 2000 c 175 s 19 are each amended to read as follows:

(1) The department may ~~((issue a notice of intention to issue a))~~ give written notice to cease and desist ((order)) to any person whom the department has reason to believe is engaged in the unlicensed operation of an in-home services agency. ~~((The person to whom the notice of intent is issued may request an adjudicative proceeding to contest the charges. The request for hearing must be filed within twenty days after service of the notice of intent to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the department may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.~~

~~((2) If the department makes a final determination that a person has engaged or is engaging in unlicensed operation of an in-home services agency, the department may issue a cease and desist order. In addition, the department may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in unlicensed operation of an in-home services agency. The proceeds of such fines shall be deposited in the department's local fee account.~~

~~((3) If the department makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the department may issue a temporary cease and desist order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. The temporary cease and desist order shall remain in effect until further order of the department. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the department may enter a permanent cease and desist order, which may include a civil fine.~~

~~((4) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating an in-home services agency without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.))~~

(2)(a) Except as otherwise provided in this section, the

requirement to cease and desist unlicensed operation is effective 20 days after the person receives the notice.

(b) The department may make the date the action is effective sooner than 20 days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice to cease and desist.

(3) The person to whom the notice to cease and desist is issued may request an adjudicative proceeding to contest the notice. The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting the notice, include a copy of the notice, and be served on and received by the department within 20 days from the date the person receives the notice to cease and desist.

(4)(a) If the department gives a person 20 days' notice to cease and desist and the person requests an adjudicative proceeding before its effective date, the department shall not implement the notice until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the notice while the proceedings are pending if the respondent causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than 20 days' notice to cease and desist and the respondent timely files a request for an adjudicative proceeding, the department may implement the cease and desist on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(5) The department may assess a civil fine not exceeding \$5,000 for each day a person operates an in-home services agency without a valid license.

(a) The department shall give written notice to the person against whom it assesses a civil fine.

(b) Except as otherwise provided in (c) and (d) of this subsection, the civil fine is due and payable 20 days after receipt.

(c) The person against whom the department assesses a civil fine has the right to request an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request must be in writing, state the basis for contesting the fine, include a copy of the notice, be served on and received by the department within 20 days of the person receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(d) If the person files a timely and sufficient request for adjudicative proceeding, the department shall not implement the fine until the final order has been served.

(6) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating an in-home services agency without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. A final notice to cease and desist is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the final notice to cease and desist or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

Sec. 15. RCW 70.230.010 and 2011 c 76 s 1 are each amended to read as follows:

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

(1) "Ambulatory surgical facility" means any distinct entity that operates for the primary purpose of providing specialty or

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multispecialty outpatient surgical services in which patients are admitted to and discharged from the facility within (~~twenty-four~~) 24 hours and do not require inpatient hospitalization, whether or not the facility is certified under Title XVIII of the federal social security act. An ambulatory surgical facility includes one or more surgical suites that are adjacent to and within the same building as, but not in, the office of a practitioner in an individual or group practice, if the primary purpose of the one or more surgical suites is to provide specialty or multispecialty outpatient surgical services, irrespective of the type of anesthesia administered in the one or more surgical suites. An ambulatory surgical facility that is adjacent to and within the same building as the office of a practitioner in an individual or group practice may include a surgical suite that shares a reception area, restroom, waiting room, or wall with the office of the practitioner in an individual or group practice.

(2) "Department" means the department of health.

(3) "General anesthesia" means a state of unconsciousness intentionally produced by anesthetic agents, with absence of pain sensation over the entire body, in which the patient is without protective reflexes and is unable to maintain an airway.

(4) "Immediate jeopardy" means a situation in which the ambulatory surgical facility's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(5) "Person" means an individual, firm, partnership, corporation, company, association, joint stock association, and the legal successor thereof.

~~((5))~~ (6) "Practitioner" means any physician or surgeon licensed under chapter 18.71 RCW, an osteopathic physician or surgeon licensed under chapter 18.57 RCW, or a podiatric physician or surgeon licensed under chapter 18.22 RCW.

~~((6))~~ (7) "Secretary" means the secretary of health.

~~((7))~~ (8) "Surgical services" means invasive medical procedures that:

(a) Utilize a knife, laser, cautery, cryogenics, or chemicals; and

(b) Remove, correct, or facilitate the diagnosis or cure of a disease, process, or injury through that branch of medicine that treats diseases, injuries, and deformities by manual or operative methods by a practitioner.

Sec. 16. RCW 70.230.070 and 2007 c 273 s 8 are each amended to read as follows:

(1) ~~(The secretary may deny, suspend, or revoke the license of any ambulatory surgical facility in any case in which he or she finds the applicant or registered entity knowingly made a false statement of material fact in the application for the license or any supporting data in any record required by this chapter or matter under investigation by the department.~~

~~(2) The secretary shall investigate complaints concerning operation of an ambulatory surgical facility without a license. The secretary may issue a notice of intention to issue a cease and desist order to any person whom the secretary has reason to believe is engaged in the unlicensed operation of an ambulatory surgical facility. If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. The temporary cease and desist order shall remain in effect until further order of the secretary. Any person operating an ambulatory surgical facility under this chapter without a license is guilty of a misdemeanor, and each day of operation of an unlicensed ambulatory surgical facility constitutes a separate offense.~~

~~(3) The secretary is authorized to deny, suspend, revoke, or~~

~~modify a license or provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.~~

(4) Pursuant to chapter 34.05 RCW, the secretary may assess monetary penalties of a civil nature not to exceed one thousand dollars per violation.) The department is authorized to take any of the actions identified in this section against an ambulatory surgical facility's license or provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter.

(a) When the department determines the ambulatory surgical facility has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the ambulatory surgical facility failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the ambulatory surgical facility cannot demonstrate to the department that it has access to sufficient internal expertise.

(b)(i) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to \$7,500 per violation on an ambulatory surgical facility licensed under this chapter when the department determines the ambulatory surgical facility has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the ambulatory surgical facility failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to offset costs associated with licensing and enforcement of ambulatory surgical facilities.

(iii) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(iv) The department shall adopt in rules under this chapter specific fine amounts in relation to:

(A) The severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance; and

(B) The number of surgical procedures performed by an ambulatory surgical facility on an annual basis as identified by the facility at the time of licensure or renewal in the following categories:

(I) Performs 1,000 or fewer surgical procedures;

(II) Performs between 1,001 and 5,000 surgical procedures; and

(III) Performs more than 5,000 surgical procedures.

(c) The department may suspend a specific category or categories of services or care or operating rooms or recovery rooms within the ambulatory surgical facility as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide an ambulatory surgical facility written notification upon identifying deficient practices or conditions that constitute an

immediate jeopardy. The ambulatory surgical facility shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the ambulatory surgical facility may not provide the services in the category or categories subject to the limited stop service to any new or existing individuals, unless otherwise allowed by the department, until the limited stop service is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the ambulatory surgical facility if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the ambulatory surgical facility has taken intermediate action to address the immediate jeopardy; and

(B) The ambulatory surgical facility establishes the ability to maintain correction of the violation previously found deficient.

(d) The department may suspend new admissions to the ambulatory surgical facility by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the ambulatory surgical facility.

(i) Prior to imposing a stop placement, the department shall provide an ambulatory surgical facility written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The ambulatory surgical facility shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the ambulatory surgical facility may not admit any new patients until the stop placement is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the ambulatory surgical facility if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the ambulatory surgical facility has taken intermediate action to address the immediate jeopardy; and

(B) The ambulatory surgical facility establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may deny an application for a license or suspend, revoke, or refuse to renew a license.

(2) The secretary may deny, suspend, or revoke the license of any ambulatory surgical facility in any case in which he or she finds the applicant or registered entity knowingly made a false statement of material fact in the application for the license or any supporting data in any record required by this chapter or matter under investigation by the department.

(3) Except as otherwise provided, RCW 43.70.115 governs

notice of actions taken by the department under this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the department's notice, be served on and received by the department within 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(a) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop service, stop placement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(b) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(c) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(d) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(e) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(f) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

(4) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension.

(a) When the department imposes an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate.

(b) At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(c) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate stop placement, immediate limited stop service, immediate imposition

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of conditions, or immediate suspension for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(d) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(e) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(f) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

NEW SECTION. Sec. 17. A new section is added to chapter 70.230 RCW to read as follows:

(1) The department may give written notice to cease and desist to any person whom the department has reason to believe is engaged in the unlicensed operation of an ambulatory surgical facility.

(2)(a) Except as otherwise provided in this section, the requirement to cease and desist unlicensed operation is effective 20 days after the person receives the notice.

(b) The department may make the date the action is effective sooner than 20 days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice to cease and desist.

(3) The person to whom the notice to cease and desist is issued may request an adjudicative proceeding to contest the notice. The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting the notice, include a copy of the notice, and be served on and received by the department within 20 days from the date the person receives the notice to cease and desist.

(4)(a) If the department gives a person 20 days' notice to cease and desist and the person requests an adjudicative proceeding before its effective date, the department shall not implement the notice until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the notice while the proceedings are pending if the respondent causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than 20 days' notice to cease and desist and the respondent timely files a request for an adjudicative proceeding, the department may implement the cease and desist on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(5) The department may assess a civil fine not exceeding \$5,000 for each day a person operates an ambulatory surgical facility without a valid license.

(a) The department shall give written notice to the person against whom it assesses a civil fine.

(b) Except as otherwise provided in (c) and (d) of this subsection, the civil fine is due and payable 20 days after receipt.

(c) The person against whom the department assesses a civil fine has the right to request an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request must be in writing, state the basis for contesting the fine, include a copy of the notice, be served on and received by the department within 20 days of the person receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(d) If the person files a timely and sufficient request for adjudicative proceeding, the department shall not implement the fine until the final order has been served.

(6) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating an ambulatory surgical facility without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. A final notice to cease and desist is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the final notice to cease and desist or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

Sec. 18. RCW 71.12.710 and 2020 c 115 s 3 are each amended to read as follows:

(1) In any case in which the department finds that a (~~licensed psychiatric hospital~~) private establishment has failed or refused to comply with (~~applicable state~~) the requirements of this chapter, the standards or rules adopted under this chapter, or other applicable state or federal statutes or (~~regulations~~) rules, the department may take one or more of the actions identified in this section, except as otherwise limited in this section.

(a) When the department determines the (~~psychiatric hospital~~) private establishment has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the (~~psychiatric hospital~~) private establishment failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the (~~hospital~~) private establishment cannot demonstrate to the department that it has access to sufficient internal expertise.

(b)(i) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to (~~ten thousand dollars~~) \$10,000 per violation, not to exceed a total fine of (~~one million dollars~~) \$1,000,000, on a (~~hospital~~) private establishment licensed under this chapter when the department determines the (~~psychiatric hospital~~) private establishment has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the (~~psychiatric hospital~~) private establishment failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to provide training or technical assistance to (~~psychiatric hospitals and~~) private establishments or to offset costs associated with licensing (~~psychiatric hospitals~~) private establishments.

(iii) The department shall adopt in rules under this chapter

specific fine amounts in relation to the severity of the noncompliance.

(iv) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

~~(c) (In accordance with RCW 43.70.095, the department may impose civil fines of up to ten thousand dollars for each day a person operates a psychiatric hospital without a valid license. Proceeds from these fines may only be used by the department to provide training or technical assistance to psychiatric hospitals and to offset costs associated with licensing psychiatric hospitals.~~

~~(d))~~ The department may suspend new admissions of a specific category or categories of patients as related to the violation by imposing a limited stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop placement, the department shall provide a ~~((psychiatric hospital))~~ private establishment written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and the ~~((psychiatric hospital))~~ private establishment shall have ~~((twenty-four))~~ 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same ~~((twenty-four))~~ 24-hour period, the department may issue the limited stop placement.

(ii) When the department imposes a limited stop placement, the ~~((psychiatric hospital))~~ private establishment may not ~~((admit any new patients))~~ accept any new admissions in the category or categories subject to the limited stop placement until the limited stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the ~~((psychiatric hospital))~~ private establishment if more than five business days is needed to verify the violation necessitating the limited stop placement has been corrected.

(iv) The limited stop placement shall be terminated when:

(A) The department verifies the violation necessitating the limited stop placement has been corrected or the department determines that the ~~((psychiatric hospital))~~ private establishment has taken intermediate action to address the immediate jeopardy; and

(B) The ~~((psychiatric hospital))~~ private establishment establishes the ability to maintain correction of the violation previously found deficient.

~~((e))~~ (d) The department may suspend all new admissions to the ~~((psychiatric hospital))~~ private establishment by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the ~~((psychiatric hospital))~~ private establishment.

(i) Prior to imposing a stop placement, the department shall provide a ~~((psychiatric hospital))~~ private establishment written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and the ~~((psychiatric hospital))~~ private establishment shall have ~~((twenty-four))~~ 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same ~~((twenty-four))~~ 24-hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the

~~((psychiatric hospital))~~ private establishment may not ~~((admit any new patients))~~ accept any new admissions until the stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the ~~((psychiatric hospital))~~ private establishment if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement order shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the ~~((psychiatric hospital))~~ private establishment has taken intermediate action to address the immediate jeopardy; and

(B) The ~~((psychiatric hospital))~~ private establishment establishes the ability to maintain correction of the violation previously found deficient.

~~((f))~~ (e) The department may suspend a specific category or categories of services within the private establishment as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide a private establishment written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The private establishment shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the private establishment may not provide the services in the category or categories subject to the limited stop service to any new or existing individuals, unless otherwise allowed by the department, until the limited stop service is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the private establishment if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the private establishment has taken intermediate action to address the immediate jeopardy; and

(B) The private establishment establishes the ability to maintain correction of the violation previously found deficient.

(f) The department may suspend, revoke, or refuse to renew a license.

(2)(a) Except as otherwise provided, RCW 43.70.115 governs notice of the imposition of conditions on a license, a limited stop placement, stop placement, limited stop service, or the suspension, revocation, or refusal to renew a license and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, including a copy of the department's notice, be served on and received by the department within ~~((twenty-eight))~~ 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(b) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited

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stop placement, stop placement, limited stop service, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within ~~((fourteen))~~ 14 days of making the request. The licensee must request the show cause hearing within ~~((twenty-eight))~~ 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and must provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department must provide the licensee with all documentation that supports the department's immediate suspension or immediate imposition of conditions.

(iii) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(iv) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the secretary sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within ~~((ninety))~~ 90 days of the licensee's request.

(3) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate stop placement, immediate limited stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension.

(a) When the department imposes an immediate stop placement, immediate limited stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate stop placement, immediate limited stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate. At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate stop placement, immediate limited stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if

true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

Sec. 19. RCW 71.12.455 and 2020 c 115 s 6 are each reenacted and amended to read as follows:

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

(1) "Department" means the department of health.

(2) "Elopement" means any situation in which an admitted patient of a ~~((psychiatric hospital))~~ private establishment who is cognitively, physically, mentally, emotionally, and/or chemically impaired wanders, walks, runs away, escapes, or otherwise leaves a ~~((psychiatric hospital))~~ private establishment or the grounds of a ~~((psychiatric hospital))~~ private establishment prior to the patient's scheduled discharge unsupervised, unnoticed, and without the staff's knowledge.

(3) ~~((Establishment))~~ Private establishment, "establishment," and "institution" mean:

(a) Every private or county or municipal hospital, including public hospital districts, ~~((sanatoriums,))~~ homes, ~~((psychiatric))~~ behavioral health hospitals, residential treatment facilities, or other places receiving or caring for any person with ~~((mental illness, mentally incompetent person, or chemically dependent person))~~ a behavioral health or substance use disorder; and

(b) Beginning January 1, 2019, facilities providing pediatric transitional care services.

(4) "Immediate jeopardy" means a situation in which the ~~((psychiatric hospital's))~~ private establishment's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(5) "Pediatric transitional care services" means short-term, temporary, health and comfort services for drug exposed infants according to the requirements of this chapter and provided in an establishment licensed by the department ~~((of health)).~~

(6) ~~((Psychiatric))~~ Behavioral health hospital" means an establishment caring for any person with mental illness or substance use disorder excluding acute care hospitals licensed under chapter 70.41 RCW, state psychiatric hospitals established under chapter 72.23 RCW, and residential treatment facilities as defined in this section.

(7) "Residential treatment facility" means an establishment in which ~~((twenty-four))~~ 24-hour on-site care is provided for the evaluation, stabilization, or treatment of residents for substance use, mental health, co-occurring disorders, or for drug exposed infants.

(8) "Secretary" means the secretary of the department of health.

(9) "Technical assistance" means the provision of information on the state laws and rules applicable to the regulation of ~~((psychiatric hospitals))~~ private establishments, the process to apply for a license, and methods and resources to avoid or address compliance problems. Technical assistance does not include assistance provided under chapter 43.05 RCW.

(10) "Trained caregiver" means a noncredentialed, unlicensed person trained by the establishment providing pediatric

transitional care services to provide hands-on care to drug exposed infants. Caregivers may not provide medical care to infants and may only work under the supervision of an appropriate health care professional.

Sec. 20. RCW 71.12.500 and 2000 c 93 s 25 are each amended to read as follows:

The department ((of health)) may at any time examine ((and ascertain how far)) a licensed private establishment ((is conducted in compliance with this chapter, the rules adopted under this chapter, and the requirements of the license therefor. If the interests of the patients of the establishment so demand, the department may, for just and reasonable cause, suspend, modify, or revoke any such license. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.)) to determine whether it has failed or refused to comply with the requirements of this chapter, the standards or rules adopted under this chapter, or other applicable state or federal statutes or rules regulating private establishments.

NEW SECTION. Sec. 21. A new section is added to chapter 71.12 RCW to read as follows:

(1) The department may give written notice to cease and desist to any person whom the department has reason to believe is engaged in the unlicensed operation of a private establishment.

(2)(a) Except as otherwise provided in this section, the requirement to cease and desist unlicensed operation is effective 20 days after the person receives the notice.

(b) The department may make the date the action is effective sooner than 20 days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice to cease and desist.

(3) The person to whom the notice to cease and desist is issued may request an adjudicative proceeding to contest the notice. The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting the notice, include a copy of the notice, and be served on and received by the department within 20 days from the date the person receives the notice to cease and desist.

(4)(a) If the department gives a person 20 days' notice to cease and desist and the person requests an adjudicative proceeding before its effective date, the department shall not implement the notice until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the notice while the proceedings are pending if the respondent causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than 20 days' notice to cease and desist and the respondent timely files a request for an adjudicative proceeding, the department may implement the cease and desist on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(5) The department may assess a civil fine not exceeding \$5,000 for each day a person operates a private establishment without a valid license.

(a) The department shall give written notice to the person against whom it assesses a civil fine.

(b) Except as otherwise provided in (c) and (d) of this subsection, the civil fine is due and payable 20 days after receipt.

(c) The person against whom the department assesses a civil fine has the right to request an adjudicative proceeding. The

proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request must be in writing, state the basis for contesting the fine, include a copy of the notice, be served on and received by the department within 20 days of the person receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(d) If the person files a timely and sufficient request for adjudicative proceeding, the department shall not implement the fine until the final order has been served.

(6) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating a private establishment without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. A final notice to cease and desist is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the final notice to cease and desist or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

Sec. 22. RCW 70.38.025 and 2000 c 175 s 22 are each amended to read as follows:

When used in this chapter, the terms defined in this section shall have the meanings indicated.

(1) "Board of health" means the state board of health created pursuant to chapter 43.20 RCW.

(2) "Capital expenditure" is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a nursing home facility as its own contractor) which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been made by purchase, such expenditure shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a nursing home facility which if acquired directly by such facility would be subject to certificate of need review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure.

(3) "Continuing care retirement community" means an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service. A "continuing care contract" means a contract to provide a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

(4) "Department" means the department of health.

(5) "Expenditure minimum" means, for the purposes of the certificate of need program, ((one million dollars)) \$1,000,000 adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule.

(6) "Health care facility" means hospices, hospice care centers,

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hospitals, ~~((psychiatric))~~ behavioral health hospitals, nursing homes, kidney disease treatment centers, ambulatory surgical facilities, and home health agencies, and includes such facilities when owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include any health facility or institution conducted by and for those who rely exclusively upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or any health facility or institution operated for the exclusive care of members of a convent as defined in RCW 84.36.800 or rectory, monastery, or other institution operated for the care of members of the clergy. In addition, the term does not include any nonprofit hospital: (a) Which is operated exclusively to provide health care services for children; (b) which does not charge fees for such services; and (c) if not contrary to federal law as necessary to the receipt of federal funds by the state.

(7) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

(a) Is a qualified health maintenance organization under Title XIII, section 1310(d) of the Public Health ~~((Services [Service]))~~ Service Act; or

(b)(i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, X-ray, emergency, and preventive services, and out-of-area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in (b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

(8) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services and as defined in federal law.

(9) "Health service area" means a geographic region appropriate for effective health planning which includes a broad range of health services.

(10) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

(11) "Provider" generally means a health care professional or an organization, institution, or other entity providing health care but the precise definition for this term shall be established by rule of the department, consistent with federal law.

(12) "Public health" means the level of well-being of the general population; those actions in a community necessary to preserve, protect, and promote the health of the people for which government is responsible; and the governmental system developed to guarantee the preservation of the health of the people.

(13) "Secretary" means the secretary of health or the secretary's designee.

(14) "Tertiary health service" means a specialized service that meets complicated medical needs of people and requires sufficient patient volume to optimize provider effectiveness,

quality of service, and improved outcomes of care.

(15) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020~~((2))~~ (8); or as a ~~((psychiatric))~~ behavioral health hospital under chapter 71.12 RCW.

Sec. 23. RCW 70.38.111 and 2021 c 277 s 1 are each amended to read as follows:

(1) The department shall not require a certificate of need for the offering of an inpatient tertiary health service by:

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least ~~((fifty thousand))~~ 50,000 individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least ~~((seventy five))~~ 75 percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination;

(b) A health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least ~~((fifty thousand))~~ 50,000 individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least ~~((seventy five))~~ 75 percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination; or

(c) A health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least ~~((fifty thousand))~~ 50,000 individuals and, on the date the application is submitted under subsection (2) of this section, at least ~~((fifteen))~~ 15 years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least ~~((seventy five))~~ 75 percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization;

if, with respect to such offering or obligation by a nursing home, the department has, upon application under subsection (2) of this section, granted an exemption from such requirement to the organization, combination of organizations, or facility.

(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (1) of this section from obtaining a certificate of need before offering a tertiary health service unless:

(a) It has submitted at least ~~((thirty))~~ 30 days prior to the offering of services reviewable under RCW 70.38.105(4)(d) an application for such exemption; and

(b) The application contains such information respecting the organization, combination, or facility and the proposed offering or obligation by a nursing home as the department may require to determine if the organization or combination meets the requirements of subsection (1) of this section or the facility meets or will meet such requirements; and

(c) The department approves such application. The department

shall approve or disapprove an application for exemption within ~~((thirty))~~ 30 days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide tertiary health services on the date an application is submitted under this subsection with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

(3) A health care facility (or any part thereof) with respect to which an exemption was granted under subsection (1) of this section may not be sold or leased and a controlling interest in such facility or in a lease of such facility may not be acquired and a health care facility described in (1)(c) which was granted an exemption under subsection (1) of this section may not be used by any person other than the lessee described in (1)(c) unless:

(a) The department issues a certificate of need approving the sale, lease, acquisition, or use; or

(b) The department determines, upon application, that (i) the entity to which the facility is proposed to be sold or leased, which intends to acquire the controlling interest, or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of (1)(a)(i), and (ii) with respect to such facility, meets the requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i) and (ii).

(4) In the case of a health maintenance organization, an ambulatory care facility, or a health care facility, which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, the department may under the program apply its certificate of need requirements to the offering of inpatient tertiary health services to the extent that such offering is not exempt under the provisions of this section or RCW 70.38.105(7).

(5)(a) The department shall not require a certificate of need for the construction, development, or other establishment of a nursing home, or the addition of beds to an existing nursing home, that is owned and operated by a continuing care retirement community that:

(i) Offers services only to contractual members;

(ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some assistance with daily living activities;

(iii) Contractually assumes responsibility for the cost of services exceeding the member's financial responsibility under the contract, so that no third party, with the exception of insurance purchased by the retirement community or its members, but including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources;

(iv) Has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home;

(v) Maintains a binding agreement with the state assuring that financial liability for services to members, including nursing home services, will not fall upon the state;

(vi) Does not operate, and has not undertaken a project that would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

(vii) Has obtained a professional review of pricing and long-term solvency within the prior five years which was fully disclosed to members.

(b) A continuing care retirement community shall not be

exempt under this subsection from obtaining a certificate of need unless:

(i) It has submitted an application for exemption at least ~~((thirty))~~ 30 days prior to commencing construction of, is submitting an application for the licensure of, or is commencing operation of a nursing home, whichever comes first; and

(ii) The application documents to the department that the continuing care retirement community qualifies for exemption.

(c) The sale, lease, acquisition, or use of part or all of a continuing care retirement community nursing home that qualifies for exemption under this subsection shall require prior certificate of need approval to qualify for licensure as a nursing home unless the department determines such sale, lease, acquisition, or use is by a continuing care retirement community that meets the conditions of (a) of this subsection.

(6) A rural hospital, as defined by the department, reducing the number of licensed beds to become a rural primary care hospital under the provisions of Part A Title XVIII of the Social Security Act Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction of beds licensed under chapter 70.41 RCW, increase the number of licensed beds to no more than the previously licensed number without being subject to the provisions of this chapter.

(7) A rural health care facility licensed under RCW 70.175.100 formerly licensed as a hospital under chapter 70.41 RCW may, within three years of the effective date of the rural health care facility license, apply to the department for a hospital license and not be subject to the requirements of RCW 70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW and there is no redistribution in the number of beds used for acute care or long-term care, the rural health care facility has been in continuous operation, and the rural health care facility has not been purchased or leased.

(8) A rural hospital determined to no longer meet critical access hospital status for state law purposes as a result of participation in the Washington rural health access preservation pilot identified by the state office of rural health and formerly licensed as a hospital under chapter 70.41 RCW may apply to the department to renew its hospital license and not be subject to the requirements of RCW 70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW. If all or part of a formerly licensed rural hospital is sold, purchased, or leased during the period the rural hospital does not meet critical access hospital status as a result of participation in the Washington rural health access preservation pilot and the new owner or lessor applies to renew the rural hospital's license, then the sale, purchase, or lease of part or all of the rural hospital is subject to the provisions of this chapter.

(9)(a) A nursing home that voluntarily reduces the number of its licensed beds to provide assisted living, licensed assisted living facility care, adult day care, adult day health, respite care, hospice, outpatient therapy services, congregate meals, home health, or senior wellness clinic, or to reduce to one or two the number of beds per room or to otherwise enhance the quality of life for residents in the nursing home, may convert the original facility or portion of the facility back, and thereby increase the number of nursing home beds to no more than the previously licensed number of nursing home beds without obtaining a certificate of need under this chapter, provided the facility has been in continuous operation and has not been purchased or leased. Any conversion to the original licensed bed capacity, or to any portion thereof, shall comply with the same life and safety code requirements as existed at the time the nursing home

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voluntarily reduced its licensed beds; unless waivers from such requirements were issued, in which case the converted beds shall reflect the conditions or standards that then existed pursuant to the approved waivers.

(b) To convert beds back to nursing home beds under this subsection, the nursing home must:

(i) Give notice of its intent to preserve conversion options to the department of health no later than ~~((thirty))~~ 30 days after the effective date of the license reduction; and

(ii) Give notice to the department of health and to the department of social and health services of the intent to convert beds back. If construction is required for the conversion of beds back, the notice of intent to convert beds back must be given, at a minimum, one year prior to the effective date of license modification reflecting the restored beds; otherwise, the notice must be given a minimum of ~~((ninety))~~ 90 days prior to the effective date of license modification reflecting the restored beds. Prior to any license modification to convert beds back to nursing home beds under this section, the licensee must demonstrate that the nursing home meets the certificate of need exemption requirements of this section.

The term "construction," as used in (b)(ii) of this subsection, is limited to those projects that are expected to equal or exceed the expenditure minimum amount, as determined under this chapter.

(c) Conversion of beds back under this subsection must be completed no later than four years after the effective date of the license reduction. However, for good cause shown, the four-year period for conversion may be extended by the department of health for one additional four-year period.

(d) Nursing home beds that have been voluntarily reduced under this section shall be counted as available nursing home beds for the purpose of evaluating need under RCW 70.38.115(2) (a) and (k) so long as the facility retains the ability to convert them back to nursing home use under the terms of this section.

(e) When a building owner has secured an interest in the nursing home beds, which are intended to be voluntarily reduced by the licensee under (a) of this subsection, the applicant shall provide the department with a written statement indicating the building owner's approval of the bed reduction.

(10)(a) The department shall not require a certificate of need for a hospice agency if:

(i) The hospice agency is designed to serve the unique religious or cultural needs of a religious group or an ethnic minority and commits to furnishing hospice services in a manner specifically aimed at meeting the unique religious or cultural needs of the religious group or ethnic minority;

(ii) The hospice agency is operated by an organization that:

(A) Operates a facility, or group of facilities, that offers a comprehensive continuum of long-term care services, including, at a minimum, a licensed, medicare-certified nursing home, assisted living, independent living, day health, and various community-based support services, designed to meet the unique social, cultural, and religious needs of a specific cultural and ethnic minority group;

(B) Has operated the facility or group of facilities for at least ~~((ten))~~ 10 continuous years prior to the establishment of the hospice agency;

(iii) The hospice agency commits to coordinating with existing hospice programs in its community when appropriate;

(iv) The hospice agency has a census of no more than ~~((forty))~~ 40 patients;

(v) The hospice agency commits to obtaining and maintaining medicare certification;

(vi) The hospice agency only serves patients located in the same county as the majority of the long-term care services offered

by the organization that operates the agency; and

(vii) The hospice agency is not sold or transferred to another agency.

(b) The department shall include the patient census for an agency exempted under this subsection (10) in its calculations for future certificate of need applications.

(11) To alleviate the need to board psychiatric patients in emergency departments and increase capacity of hospitals to serve individuals on ~~((ninety))~~ 90-day or ~~((one hundred eighty))~~ 180-day commitment orders, for the period of time from May 5, 2017, through June 30, 2023:

(a) The department shall suspend the certificate of need requirement for a hospital licensed under chapter 70.41 RCW that changes the use of licensed beds to increase the number of beds to provide psychiatric services, including involuntary treatment services. A certificate of need exemption under this subsection (11)(a) shall be valid for two years.

(b) The department may not require a certificate of need for:

(i) The addition of beds as described in RCW 70.38.260 (2) and (3); or

(ii) The construction, development, or establishment of a ~~((psychiatric))~~ behavioral health hospital licensed as an establishment under chapter 71.12 RCW that will have no more than ~~((sixteen))~~ 16 beds and provide treatment to adults on ~~((ninety))~~ 90 or ~~((one hundred eighty))~~ 180-day involuntary commitment orders, as described in RCW 70.38.260(4).

(12)(a) An ambulatory surgical facility is exempt from all certificate of need requirements if the facility:

(i) Is an individual or group practice and, if the facility is a group practice, the privilege of using the facility is not extended to physicians outside the group practice;

(ii) Operated or received approval to operate, prior to January 19, 2018; and

(iii) Was exempt from certificate of need requirements prior to January 19, 2018, because the facility either:

(A) Was determined to be exempt from certificate of need requirements pursuant to a determination of reviewability issued by the department; or

(B) Was a single-specialty endoscopy center in existence prior to January 14, 2003, when the department determined that endoscopy procedures were surgeries for purposes of certificate of need.

(b) The exemption under this subsection:

(i) Applies regardless of future changes of ownership, corporate structure, or affiliations of the individual or group practice as long as the use of the facility remains limited to physicians in the group practice; and

(ii) Does not apply to changes in services, specialties, or number of operating rooms.

(13) A rural health clinic providing health services in a home health shortage area as declared by the department pursuant to 42 C.F.R. Sec. 405.2416 is not subject to certificate of need review under this chapter.

Sec. 24. RCW 70.38.260 and 2021 c 277 s 2 are each amended to read as follows:

(1) For a grant awarded during fiscal years 2018 and 2019 by the department of commerce under this section, hospitals licensed under chapter 70.41 RCW and ~~((psychiatric))~~ behavioral health hospitals licensed as establishments under chapter 71.12 RCW are not subject to certificate of need requirements for the addition of the number of new psychiatric beds indicated in the grant. The department of commerce may not make a prior approval of a certificate of need application a condition for a grant application under this section. The period during which an approved hospital or ~~((psychiatric))~~ behavioral health hospital project qualifies for a

certificate of need exemption under this section is two years from the date of the grant award.

(2)(a) Until June 30, 2023, a hospital licensed under chapter 70.41 RCW is exempt from certificate of need requirements for the addition of new psychiatric beds.

(b) A hospital that adds new psychiatric beds under this subsection (2) must:

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the hospital with a notice of exemption within ~~((thirty))~~ 30 days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Beds granted an exemption under RCW 70.38.111(11)(b) must remain psychiatric beds unless a certificate of need is granted to change their use or the hospital voluntarily reduces its licensed capacity.

(3)(a) Until June 30, 2023, a ~~((psychiatric))~~ behavioral health hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements for the one-time addition of up to 30 new psychiatric beds devoted solely for 90-day and 180-day civil commitment services and for the one-time addition of up to 30 new voluntary psychiatric beds or involuntary psychiatric beds for patients on a 120 hour detention or 14-day civil commitment order, if the hospital makes a commitment to maintain a payer mix of at least ~~((fifty))~~ 50 percent medicare and medicaid based on a calculation using patient days for a period of five consecutive years after the beds are made available for use by patients, if it demonstrates to the satisfaction of the department:

(i) That its most recent two years of publicly available fiscal year-end report data as required under RCW 70.170.100 and 43.70.050 reported to the department by the ~~((psychiatric))~~ behavioral health hospital, show a payer mix of a minimum of ~~((fifty))~~ 50 percent medicare and medicaid based on a calculation using patient days; and

(ii) A commitment to maintaining the payer mix in (a) of this subsection for a period of five consecutive years after the beds are made available for use by patients.

(b) A ~~((psychiatric))~~ behavioral health hospital that adds new psychiatric beds under this subsection (3) must:

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the ~~((psychiatric))~~ behavioral health hospital with a notice of exemption within ~~((thirty))~~ 30 days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Beds granted an exemption under RCW 70.38.111(11)(b) must remain the types of psychiatric beds indicated to the department in the original exemption application unless a certificate of need is granted to change their use or the ~~((psychiatric))~~ behavioral health hospital voluntarily reduces its licensed capacity.

(4)(a) Until June 30, 2023, an entity seeking to construct, develop, or establish a ~~((psychiatric))~~ behavioral health hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements if the proposed ~~((psychiatric))~~ behavioral health hospital will have no more than ~~((sixteen))~~ 16 beds and dedicate a portion of the beds to providing treatment to adults on ~~((ninety))~~ 90 or ~~((one hundred eighty))~~ 180-day involuntary commitment orders. The ~~((psychiatric))~~ behavioral health hospital may also provide treatment to adults on a 120 hour detention or 14-day involuntary commitment order.

(b) An entity that seeks to construct, develop, or establish a ~~((psychiatric))~~ behavioral health hospital under this subsection (4) must:

(i) Notify the department of the addition of construction,

development, or establishment. The department shall provide the entity with a notice of exemption within ~~((thirty))~~ 30 days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Entities granted an exemption under RCW 70.38.111(11)(b)(ii) may not exceed ~~((sixteen))~~ 16 beds unless a certificate of need is granted to increase the ~~((psychiatric))~~ behavioral health hospital's capacity.

(5) This section expires June 30, 2025.

Sec. 25. RCW 71.24.025 and 2023 c 454 s 1 and 2023 c 433 s 1 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "23-hour crisis relief center" means a community-based facility or portion of a facility serving adults, which is licensed or certified by the department of health and open 24 hours a day, seven days a week, offering access to mental health and substance use care for no more than 23 hours and 59 minutes at a time per patient, and which accepts all behavioral health crisis walk-ins drop-offs from first responders, and individuals referred through the 988 system regardless of behavioral health acuity, and meets the requirements under RCW 71.24.916.

(2) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

(3) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(4) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(5) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(6) "Authority" means the Washington state health care authority.

(7) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(8) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(9) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those

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related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(10) "Behavioral health provider" means a person licensed under chapter 18.57, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(11) "Behavioral health services" means mental health services, substance use disorder treatment services, and co-occurring disorder treatment services as described in this chapter and chapter 71.36 RCW that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(12) "Child" means a person under the age of ~~((eighteen))~~ 18 years.

(13) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous ~~((psychiatric))~~ behavioral health hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than ~~((twelve))~~ 12 months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(14) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(15) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(16) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(17) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available ~~((twenty-four))~~ 24 hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(18) "Community-based crisis team" means a team that is part of an emergency medical services agency, a fire service agency,

a public health agency, a medical facility, a nonprofit crisis response provider, or a city or county government entity, other than a law enforcement agency, that provides the on-site community-based interventions of a mobile rapid response crisis team for individuals who are experiencing a behavioral health crisis.

(19) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(20) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

(21) "Crisis stabilization services" means services such as 23-hour crisis relief centers, crisis stabilization units, short-term respite facilities, peer-run respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs, or determine the need for involuntary hospitalization of an individual.

(22) "Crisis stabilization unit" has the same meaning as under RCW 71.05.020.

(23) "Department" means the department of health.

(24) "Designated 988 contact hub" means a state-designated contact center that streamlines clinical interventions and access to resources for people experiencing a behavioral health crisis and participates in the national suicide prevention lifeline network to respond to statewide or regional 988 contacts that meets the requirements of RCW 71.24.890.

(25) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(26) "Director" means the director of the authority.

(27) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(28) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(7).

(29) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (30) of this section.

(30) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(31) "First responders" includes ambulance, fire, mobile rapid response crisis team, coresponder team, designated crisis

responder, fire department mobile integrated health team, community assistance referral and education services program under RCW 35.21.930, and law enforcement personnel.

~~((32))~~ (32) "Immediate jeopardy" means a situation in which the licensed or certified behavioral health agency's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

~~((33))~~ (33) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

~~((33))~~ (34) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

~~((34))~~ (35) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

~~((35))~~ (36) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

~~((36))~~ (37) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ~~((ninety))~~ 90 days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

~~((37))~~ (38) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

~~((38))~~ (39) "Mental health peer-run respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

~~((39))~~ (40) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

~~((40))~~ (41) "Mentally ill persons," "persons who are mentally

ill," and "the mentally ill" mean persons and conditions defined in subsections (3), (13), ~~((48))~~ (49), and ~~((49))~~ (50) of this section.

~~((41))~~ (42) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include certified peer counselors as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

~~((42))~~ (43) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

~~((43))~~ (44) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (30) of this section but does not meet the full criteria for evidence-based.

~~((44))~~ (45) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

~~((45))~~ (46) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

~~((46))~~ (47) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, ~~((twenty-four))~~ 24 hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as

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applicable.

~~((47))~~ (48) "Secretary" means the secretary of the department of health.

~~((48))~~ (49) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

~~((49))~~ (50) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, ~~((psychiatric))~~ behavioral health hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

~~((50))~~ (51) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

~~((51))~~ (52) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a

substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

~~((52))~~ (53) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

Sec. 26. RCW 71.24.037 and 2023 c 454 s 2 are each amended to read as follows:

(1) The secretary shall license or certify any agency or facility that: (a) Submits payment of the fee established under RCW 43.70.110 and 43.70.250; and (b) submits a complete application that demonstrates the ability to comply with requirements for operating and maintaining an agency or facility in statute or rule ~~((; and (c) successfully completes the preclearance inspection requirement))~~.

(2) The secretary shall establish by rule minimum standards for licensed or certified behavioral health agencies that must, at a minimum, establish: (a) Qualifications for staff providing services directly to persons with mental disorders, substance use disorders, or both; (b) the intended result of each service; and (c) the rights and responsibilities of persons receiving behavioral health services pursuant to this chapter and chapters 71.34 and ~~((chapter))~~ 71.05 RCW. The secretary shall provide for deeming of licensed or certified behavioral health agencies as meeting state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department.

~~(3) ((The department shall review reports or other information alleging a failure to comply with this chapter or the standards and rules adopted under this chapter and may initiate investigations and enforcement actions based on those reports.~~

~~(4) The department shall conduct inspections of agencies and facilities, including reviews of records and documents required to be maintained under this chapter or rules adopted under this chapter.~~

~~(5) The department may suspend, revoke, limit, restrict, or modify an approval, or refuse to grant approval, for failure to meet the provisions of this chapter, or the standards adopted under this chapter. RCW 43.70.115 governs notice of a license or certification denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.~~

~~(6))~~ No licensed or certified behavioral health agency may advertise or represent itself as a licensed or certified behavioral health agency if approval has not been granted or has been denied, suspended, revoked, or canceled.

~~((7))~~ (4) Licensure or certification as a behavioral health agency is effective for one calendar year from the date of issuance of the license or certification. The license or certification must specify the types of services provided by the behavioral health agency that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

~~((8))~~ (5) Licensure or certification as a licensed or certified behavioral health agency must specify the types of services provided that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

~~((9))~~ (6) The department shall develop a process by which a provider may obtain dual licensure as an evaluation and treatment facility and secure withdrawal management and stabilization facility.

~~((10))~~ (7) Licensed or certified behavioral health agencies may not provide types of services for which the licensed or certified behavioral health agency has not been certified. Licensed or certified behavioral health agencies may provide

services for which approval has been sought and is pending, if approval for the services has not been previously revoked or denied.

~~((11) The department periodically shall inspect licensed or certified behavioral health agencies at reasonable times and in a reasonable manner.~~

~~(12) Upon petition of the department and after a hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the department authorizing him or her to enter and inspect at reasonable times, and examine the books and accounts of, any licensed or certified behavioral health agency refusing to consent to inspection or examination by the department or which the department has reasonable cause to believe is operating in violation of this chapter.~~

~~((13)) (8) The department shall maintain and periodically publish a current list of licensed or certified behavioral health agencies.~~

~~((14) Each licensed or certified behavioral health agency shall file with the department or the authority upon request, data, statistics, schedules, and information the department or the authority reasonably requires. A licensed or certified behavioral health agency that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, may have its license or certification revoked or suspended.~~

~~(15) The authority shall use the data provided in subsection (14) of this section to evaluate each program that admits children to inpatient substance use disorder treatment upon application of their parents. The evaluation must be done at least once every twelve months. In addition, the authority shall randomly select and review the information on individual children who are admitted on application of the child's parent for the purpose of determining whether the child was appropriately placed into substance use disorder treatment based on an objective evaluation of the child's condition and the outcome of the child's treatment.~~

~~(16) Any settlement agreement entered into between the department and licensed or certified behavioral health agencies to resolve administrative complaints, license or certification violations, license or certification suspensions, or license or certification revocations may not reduce the number of violations reported by the department unless the department concludes, based on evidence gathered by inspectors, that the licensed or certified behavioral health agency did not commit one or more of the violations.~~

~~(17) In cases in which a behavioral health agency that is in violation of licensing or certification standards attempts to transfer or sell the behavioral health agency to a family member, the transfer or sale may only be made for the purpose of remedying license or certification violations and achieving full compliance with the terms of the license or certification. Transfers or sales to family members are prohibited in cases in which the purpose of the transfer or sale is to avoid liability or reset the number of license or certification violations found before the transfer or sale. If the department finds that the owner intends to transfer or sell, or has completed the transfer or sale of, ownership of the behavioral health agency to a family member solely for the purpose of resetting the number of violations found before the transfer or sale, the department may not renew the behavioral health agency's license or certification or issue a new license or certification to the behavioral health service provider.~~

~~(18) Every licensed or certified outpatient behavioral health agency shall display the 988 crisis hotline number in common areas of the premises and include the number as a calling option on any phone message for persons calling the agency after business hours.~~

~~(19) Every licensed or certified inpatient or residential~~

~~behavioral health agency must include the 988 crisis hotline number in the discharge summary provided to individuals being discharged from inpatient or residential services.))~~

NEW SECTION. Sec. 27. A new section is added to chapter 71.24 RCW to read as follows:

(1) The department shall review reports or other information alleging a failure to comply with this chapter or the standards and rules adopted under this chapter and may initiate investigations and enforcement actions based on those reports.

(2) The department shall conduct inspections of licensed or certified behavioral health agencies, including reviews of records and documents required to be maintained under this chapter or rules adopted under this chapter.

(3) Each licensed or certified behavioral health agency shall file with the department or the authority upon request data, statistics, schedules, medical records, and other information the department or the authority reasonably requires. A licensed or certified behavioral health agency that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, may have its license or certification revoked or suspended.

(4) The authority shall use the data provided in subsection (3) of this section to evaluate each program that admits children to inpatient substance use disorder treatment upon application of their parents. The evaluation shall be done at least once every 12 months. In addition, the authority shall randomly select and review the information on individual children who are admitted on application of the child's parent for the purpose of determining whether the child was appropriately placed into substance use disorder treatment based on an objective evaluation of the child's condition and the outcome of the child's treatment.

(5) Any settlement agreement entered into between the department and licensed or certified behavioral health agencies to resolve administrative complaints, license or certification violations, license or certification suspensions, or license or certification revocations may not reduce the number of violations reported by the department unless the department concludes, based on evidence gathered by inspectors, that the licensed or certified behavioral health agency did not commit one or more of the violations.

(6) In cases in which a licensed or certified behavioral health agency that is in violation of licensing or certification standards attempts to transfer or sell the behavioral health agency to a family member, the transfer or sale may only be made for the purpose of remedying license or certification violations and achieving full compliance with the terms of the license or certification. Transfers or sales to family members are prohibited in cases in which the purpose of the transfer or sale is to avoid liability or reset the number of license or certification violations found before the transfer or sale. If the department finds that the owner intends to transfer or sell, or has completed the transfer or sale of, ownership of the behavioral health agency to a family member solely for the purpose of resetting the number of violations found before the transfer or sale, the department may not renew the behavioral health agency's license or certification or issue a new license or certification to the behavioral health provider.

(7) In any case in which the department finds that a licensed or certified behavioral health agency has failed or refused to comply with the requirements of this chapter or the standards or rules adopted under this chapter, the department may take one or more of the actions identified in this section, except as otherwise limited in this section.

(a) When the department determines the licensed or certified behavioral health agency has previously been subject to an enforcement action for the same or similar type of violation of the

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same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the licensed or certified behavioral health agency failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the licensed or certified behavioral health agency cannot demonstrate to the department that it has access to sufficient internal expertise.

(b)(i) In accordance with the department's authority under RCW 43.70.095, the department may assess a civil fine of up to \$3,000 per violation on a licensed or certified behavioral health agency when the department determines the licensed or certified behavioral health agency has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the licensed or certified behavioral health agency failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to provide training or technical assistance to licensed or certified behavioral health agencies and to offset costs associated with licensing, certification, or enforcement of behavioral health agencies.

(iii) The department shall adopt in rules under this chapter specific fine amounts in relation to the severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance.

(iv) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(c) The department may suspend new intake or admission of a specific category or categories of individuals receiving behavioral health services as related to the violation by imposing a limited stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop placement, the department shall provide a licensed or certified behavioral health agency written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and the licensed or certified behavioral health agency shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop placement.

(ii) When the department imposes a limited stop placement, the licensed or certified behavioral health agency may not accept any new individuals in the category or categories subject to the limited stop placement until the limited stop placement is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the licensed or certified behavioral health agency if more than five business days is needed to verify the violation necessitating the limited stop placement has been corrected.

(iv) The limited stop placement shall be terminated when:

(A) The department verifies the violation necessitating the limited stop placement has been corrected or the department determines that the licensed or certified behavioral health agency has taken intermediate action to address the immediate jeopardy;

and

(B) The licensed or certified behavioral health agency establishes the ability to maintain correction of the violation previously found deficient.

(d) The department may suspend new intake or admission of individuals receiving behavioral health services as related to the violation by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of individuals.

(i) Prior to imposing a stop placement, the department shall provide a licensed or certified behavioral health agency written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The licensed or certified behavioral health agency shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute an immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the licensed or certified behavioral health agency may not accept any new individuals receiving behavioral health services until the stop placement is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the licensed or certified behavioral health agency if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the licensed or certified behavioral health agency has taken intermediate action to address the immediate jeopardy; and

(B) The licensed or certified behavioral health agency establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may suspend a specific category or categories of behavioral health services as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide a licensed or certified behavioral health agency written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The licensed or certified behavioral health agency shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the licensed or certified behavioral health agency may not provide the services in the category or categories subject to the limited stop service to any new or existing individuals, unless otherwise allowed by the department, until the limited stop service is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the licensed or certified behavioral health agency if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the licensed or certified behavioral health agency has taken intermediate action to address the immediate jeopardy; and

(B) The licensed or certified behavioral health agency establishes the ability to maintain correction of the violation previously found deficient.

(f) The department may suspend, revoke, or refuse to renew a license.

(8)(a) Except as otherwise provided, RCW 43.70.115 governs notice of the imposition of conditions on a license, a limited stop placement, stop placement, limited stop service, or the suspension, revocation, or refusal to renew a license and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the department's notice, be served on and received by the department within 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(b) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop placement, stop placement, limited stop service, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate suspension or immediate imposition of conditions.

(iii) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(iv) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the secretary sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

(9) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate limited stop placement, immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension.

(a) When the department imposes an immediate limited stop

placement, immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate limited stop placement, immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate. At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate limited stop placement, immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

Sec. 28. RCW 70.170.020 and 2022 c 197 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Department" means department of health.

(2) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(8); or as a (~~psychiatric~~) behavioral health hospital under chapter 71.12 RCW.

(3) "Secretary" means secretary of health.

(4) "Charity care" means medically necessary hospital health care rendered to indigent persons when third-party coverage, if any, has been exhausted, to the extent that the persons are unable to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payer, as determined by the department.

(5) "Indigent persons" are those patients or their guarantors who qualify for charity care pursuant to RCW 70.170.060(5) based on the federal poverty level, adjusted for family size, and who have exhausted any third-party coverage.

(6) "Third-party coverage" means an obligation on the part of an insurance company, health care service contractor, health maintenance organization, group health plan, government program, tribal health benefits, or health care sharing ministry as defined in 26 U.S.C. Sec. 5000A to pay for the care of covered patients and services, and may include settlements, judgments, or awards actually received related to the negligent acts of others which have resulted in the medical condition for which the patient has received hospital health care service. The pendency of such settlements, judgments, or awards must not stay hospital

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obligations to consider an eligible patient for charity care.

(7) "Special studies" means studies which have not been funded through the department's biennial or other legislative appropriations.

Sec. 29. RCW 18.64.005 and 2022 c 240 s 15 are each amended to read as follows:

The commission shall:

(1) Regulate the practice of pharmacy and enforce all laws placed under its jurisdiction;

(2) Prepare or determine the nature of, and supervise the grading of, examinations for applicants for pharmacists' licenses;

(3) Establish the qualifications for licensure of pharmacists or pharmacy interns;

(4) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the commission, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW or a presiding officer designated by the commission. The commission may authorize the secretary, or their designee, to serve as the presiding officer for any disciplinary proceedings of the commission (~~(authorized under this chapter)~~). The presiding officer shall not vote on or make any final decision in cases pertaining to standards of practice or where clinical expertise is necessary. All functions performed by the presiding officer shall be subject to chapter 34.05 RCW;

(5) Issue subpoenas and administer oaths in connection with any hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the commission;

(6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, or any other laws or rules under its jurisdiction;

(7) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for (~~(refusal)~~) denial of an application, assessment of a civil fine, imposition of a limited stop service, imposition of reasonable conditions, suspension, (~~(or)~~) revocation, or modification of licenses or any other authority to practice issued by the commission;

(8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;

(9) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed as members of the commission. Such immunity shall apply to employees of the department when acting in the course of disciplinary proceedings;

(10) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;

(11) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse of drugs for health care practitioners and licensed or certified health care facilities;

(12) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;

(13) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care

providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social and health services, the department of labor and industries, and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the department. The department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers;

(14) Whenever the workload of the commission requires, request that the secretary appoint pro tempore members. While serving as members pro tempore persons have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses, of the commission.

Sec. 30. RCW 18.64.011 and 2021 c 78 s 1 are each amended to read as follows:

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

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

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

(3) "Chart order" means a lawful order for a drug or device entered on the chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his or her designated agent.

(4) "Closed door long-term care pharmacy" means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a long-term care facility or hospice program, and that is not a retailer of goods to the general public.

(5) "Commission" means the pharmacy quality assurance commission.

(6) "Compounding" means the act of combining two or more ingredients in the preparation of a prescription. Reconstitution and mixing of (a) sterile products according to federal food and drug administration-approved labeling does not constitute compounding if prepared pursuant to a prescription and administered immediately or in accordance with package labeling, and (b) nonsterile products according to federal food and drug administration-approved labeling does not constitute compounding if prepared pursuant to a prescription.

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

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

(9) "Department" means the department of health.

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

(11) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that

prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

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

(13) "Drug" and "devices" do not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes. "Drug" also does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(14) "Drugs" means:

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

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

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

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

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

(16) "Hospice program" means a hospice program certified or paid by medicare under Title XVIII of the federal social security act, or a hospice program licensed under chapter 70.127 RCW.

(17) "Institutional facility" means any organization whose primary purpose is to provide a physical environment for patients to obtain health care services including, but not limited to, services in a hospital, long-term care facility, hospice program, mental health facility, drug abuse treatment center, residential habilitation center, or a local, state, or federal correction facility.

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

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

(20) "Long-term care facility" means a nursing home licensed under chapter 18.51 RCW, an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(21) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his

or her administration or dispensing such substance or device in the course of his or her professional practice, personally prepares, compounds, packages, or labels such substance or device. "Manufacture" includes the distribution of a licensed pharmacy compounded drug product to other state licensed persons or commercial entities for subsequent resale or distribution, unless a specific product item has approval of the commission. The term does not include:

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

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

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

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

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

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

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

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

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

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

(28) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

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

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

(31) "Secretary" means the secretary of health or the secretary's designee.

(32) "Shared pharmacy services" means a system that allows a participating pharmacist or pharmacy pursuant to a request from another participating pharmacist or pharmacy to process or fill a prescription or drug order, which may include but is not

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necessarily limited to preparing, packaging, labeling, data entry, compounding for specific patients, dispensing, performing drug utilization reviews, conducting claims adjudication, obtaining refill authorizations, reviewing therapeutic interventions, or reviewing chart orders.

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

(34) "Directed plan of correction" means a plan devised by the commission that includes specific actions that must be taken to correct identified unresolved deficiencies with time frames to complete them.

(35) "Immediate jeopardy" means a situation in which a licensee's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of individuals or animals at risk for serious injury, serious harm, serious impairment, or death.

(36) "License," "licensing," and "licensure" shall be deemed equivalent to the terms "approval," "credential," "certificate," "certification," "permit," and "registration" and an "exemption" issued under chapter 69.50 RCW.

(37) "Plan of correction" means a proposal devised by the applicant or licensee that includes specific actions that must be taken to correct identified unresolved deficiencies with the time frames to complete them.

(38) "Statement of deficiency" means a written statement of the deficiencies prepared by the commission, or its designee, identifying one or more violations of law. The report clearly identifies the specific law or rule that has been violated along with a description of the reasons for noncompliance.

NEW SECTION. Sec. 31. A new section is added to chapter 18.64 RCW to read as follows:

This section governs the denial of an application for a license or the suspension, revocation, or modification of a license issued by the commission. This section does not govern actions taken under chapter 18.130 RCW.

(1) The commission shall give written notice of the denial of an application for a license to the applicant or its agent. The form, contents, and service of the notice shall comply with this chapter and the procedural rules adopted by the commission.

(2) The commission shall give written notice of revocation, suspension, or modification of a license to the licensee or its agent. The form, contents, and service of the notice shall comply with this chapter and the procedural rules adopted by the commission.

(3) Except as otherwise provided in this chapter, revocation, suspension, or modification is effective 28 days after the licensee or the agent receives the notice.

(a) The commission may make the date the action is effective later than 28 days after receipt. If the commission does so, it shall state the effective date in the written notice given to the licensee or its agent.

(b) The commission may make the date the action is effective sooner than 28 days after receipt when necessary to protect the public health, safety, or welfare. When the commission does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or its agent.

(4) Except for licensees suspended for noncompliance with a child support order under chapter 74.20A RCW, a license applicant or licensee who is aggrieved by a commission denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The form, contents, and service of the application for an adjudicative

hearing must comply with this chapter and with the procedural rules adopted by the commission and must be served on and received by the commission within 28 days of the applicant or licensee receiving the notice.

(5)(a) If the commission gives a licensee 28 or more days' notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the commission shall not implement the adverse action until the final order has been entered. The commission may implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the commission gives a licensee less than 28 days' notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the commission may implement the adverse action on the effective date stated in the notice. The commission may stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(6) The commission may accept the surrender of the licensee's license. A licensee whose surrender has been accepted may not petition for reinstatement of its surrendered license.

NEW SECTION. Sec. 32. A new section is added to chapter 18.64 RCW to read as follows:

This section governs the assessment of a civil fine against a licensee issued by the commission. This section does not govern actions taken under chapter 18.130 RCW.

(1) The commission shall give written notice to the licensee or its agent against whom it assesses a civil fine. The form, contents, and service of the notice shall comply with this chapter and the procedural rules adopted by the commission.

(2) The civil fine is due and payable 28 days after receipt by the licensee or its agent. The commission may make the date the fine is due later than 28 days after receipt by the licensee or its agent. When the commission does so, it shall state the date the fine is due in the written notice given to the licensee against whom it assesses the fine.

(3) The licensee against whom the commission assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The form, contents, and service of the application for an adjudicative hearing must comply with this chapter and the procedural rules adopted by the commission and must be served on and received by the commission within 28 days of the licensee receiving the notice.

NEW SECTION. Sec. 33. A new section is added to chapter 18.64 RCW to read as follows:

This section does not govern actions taken under chapter 18.130 RCW.

(1) The commission is authorized to take any of the actions identified in this section against licenses, registrations, permits, or other credentials or approvals issued by the commission under this chapter and chapters 18.64A, 69.38, 69.41, 69.43, 69.45, and 69.50 RCW in any case in which it finds the licensee has failed or refused to comply with any state or federal statute or administrative rule regulating the license in question including, but not limited to, Title 69 RCW, this chapter, chapter 18.64A RCW, and administrative rules adopted by the commission, except as otherwise limited in this section.

(a) When the commission determines a licensee has previously been subject to an enforcement action for the same or similar type of violation of the same or similar statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule,

or when the licensee failed to correct noncompliance with a statute or rule by a date established or agreed to by the commission, the commission may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, a directed plan of correction, training, or hiring a commission-approved consultant if the licensee cannot demonstrate to the commission that it has access to sufficient internal expertise. If the commission determines the violations constitute immediate jeopardy, the conditions may be imposed immediately in accordance with subsection (2)(b) of this section.

(b)(i) In accordance with the commission's authority under section 32 of this act, the commission may assess a civil fine of up to \$10,000 per violation, not to exceed a total fine of \$1,000,000, on a licensee when the commission determines the licensee has previously been subject to an enforcement action for the same or similar type of violation of the same or similar statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when a licensee failed to correct noncompliance with a statute or rule by a date established or agreed to by the commission.

(ii) Proceeds from these fines may only be used by the commission to provide training or technical assistance to licensees and to offset costs associated with licensing and enforcement.

(iii) The commission shall adopt in rules under this chapter to establish specific fine amounts in relation to:

(A) The severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance; and

(B) The operation size of the licensee.

(iv) If a licensee is aggrieved by the commission's action of assessing civil fines, the licensee has the right to appeal under section 32 of this act.

(c) The commission may restrict the ability of a licensee to engage in a specific service related to a violation by imposing a limited stop service. This may only be done if the commission finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the commission shall provide a licensee written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The licensee shall have 24 hours from notification to develop and implement a commission-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the commission as having been corrected within the same 24-hour period, the commission may issue the limited stop service.

(ii) When the commission imposes a limited stop service, the licensee may not provide the services subject to the limited stop service, unless otherwise allowed by the commission, until the limited stop service order is terminated.

(iii) The commission shall conduct a follow-up inspection within five business days or within the time period requested by the licensee if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The commission verifies the violation necessitating the limited stop service has been corrected or the commission determines that the licensee has taken intermediate action to address the immediate jeopardy; and

(B) The licensee establishes the ability to maintain correction of the violation previously found deficient.

(d) The commission may deny an application, or suspend, revoke, or modify a license.

(2)(a) Except as otherwise provided, sections 31 and 32 of this act govern notices of actions taken by the commission under

subsection (1) of this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW.

(b) When the commission determines a licensee's noncompliance results in immediate jeopardy, the commission may make the imposition of conditions on a licensee, a limited stop service, or the suspension or modification of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the commission makes the suspension or modification of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a hearing panel of the commission within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice. At the show cause hearing the commission has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the commission may consider the notice and documents supporting the immediate imposition of conditions on a licensee, or the suspension or modification of a license, and the licensee's response, and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the commission shall provide the licensee with all documentation that supports the commission's immediate imposition of conditions on a licensee or suspension or modification of a license.

(iii) If the hearing panel of the commission determines there is no immediate jeopardy, the hearing panel of the commission may overturn the immediate suspension or modification of the license or immediate imposition of conditions.

(iv) If the hearing panel of the commission determines there is immediate jeopardy, the immediate suspension or modification of the license or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the commission sustains the immediate suspension or modification of the license or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits. A full hearing must be provided within 90 days of the licensee's request, unless otherwise stipulated by the parties.

(3) The commission may take action under subsection (1) of this section against a nonresident pharmacy for failure to comply with any requirement of RCW 18.64.350 through 18.64.400, conduct that caused injury to a resident of this state, or conduct that resulted in adverse action against the nonresident pharmacy by a federal agency or the regulatory or licensing agency in the state in which the nonresident pharmacy is located.

(4) When the commission determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the commission's investigation of such an alleged violation, the commission may impose an immediate limited stop service, immediate imposition of conditions, or immediate suspension or modification of a license.

(a) When the commission imposes an immediate limited stop service, immediate imposition of conditions, or immediate suspension or modification of a license for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate limited stop service, immediate imposition of conditions, or immediate suspension or modification of a license for failure to cooperate. At the show cause hearing the commission has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to

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cooperate with the commission's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate limited stop service, immediate imposition of conditions, or immediate suspension or modification of a license for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the commission shall provide the licensee with all documentation that supports the commission's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the commission's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the commission's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the commission's action. A full hearing must be provided within 90 days of the licensee's request.

NEW SECTION. Sec. 34. A new section is added to chapter 18.64 RCW to read as follows:

This section does not govern actions taken under chapter 18.130 RCW.

(1) A licensee whose license has been suspended under this chapter may petition the commission for reinstatement after an interval as determined by the commission in the order. The commission shall hold hearings on the petition. The commission may deny the petition or may order reinstatement of the licensee's license. The commission may impose terms and conditions in the order of reinstatement.

(2) A licensee whose license has been suspended for noncompliance with a support order or visitation order under RCW 74.20A.320 may petition for reinstatement at any time by providing the commission a release issued by the department of social and health services stating that the person is in compliance with the order. If the person has continued to meet all other requirements for reinstatement during the suspension, the commission shall automatically reissue the person's license upon receipt of the release, and payment of a reinstatement fee, if any.

NEW SECTION. Sec. 35. A new section is added to chapter 18.64 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a license under this chapter.

Sec. 36. RCW 18.64.047 and 2013 c 19 s 10 are each amended to read as follows:

(1) Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the secretary on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280. The department may issue a registration to such vendor on an approved application made to the department.

(2) Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, is guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(3) In event the registration fee remains unpaid on the date due, no renewal or new registration shall be issued except upon

compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. This registration shall not authorize the sale of legend drugs or controlled substances.

(4) An itinerant vendor may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The commission shall issue a warning to an itinerant vendor who violates this subsection, and may suspend or revoke the registration of the vendor for a subsequent violation.

(5) An itinerant vendor who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The itinerant vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ~~((ten))~~ 10 percent of the vendor's total prior monthly sales of nonprescription drugs in March through October. In November through February, the vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ~~((twenty))~~ 20 percent of the vendor's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. ~~((The commission may suspend or revoke the registration of an itinerant vendor who violates this subsection.))~~

(b) The itinerant vendor shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the commission. The records must be available for inspection by the commission or any law enforcement agency and must be maintained for two years. The commission may suspend or revoke the registration of an itinerant vendor who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

Sec. 37. RCW 18.64.165 and 2016 c 81 s 10 are each amended to read as follows:

~~((The commission shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, peddler, poison distributor, health care entity, or precursor chemical distributor))~~ In addition to any other grounds, the commission may take action against a license issued under this chapter and chapters 18.64A, 69.38, 69.41, 69.43, 69.45, and 69.50 RCW, except nonresident pharmacies, upon proof that:

(1) The license was procured through fraud, misrepresentation, or deceit;

(2) Except as provided in RCW 9.97.020, the licensee has violated or has permitted any employee to violate any of the laws of this state or the United States relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the commission or has been convicted of a felony.

Sec. 38. RCW 18.64A.020 and 2013 c 19 s 33 are each amended to read as follows:

(1)(a) The commission shall adopt, in accordance with chapter 34.05 RCW, rules fixing the classification and qualifications and the educational and training requirements for persons who may

be employed as pharmacy technicians or who may be enrolled in any pharmacy technician training program. Such rules shall provide that:

(i) Licensed pharmacists shall supervise the training of pharmacy technicians;

(ii) Training programs shall assure the competence of pharmacy technicians to aid and assist pharmacy operations. Training programs shall consist of instruction and/or practical training; and

(iii) Pharmacy technicians shall complete continuing education requirements established in rule by the commission.

(b) Such rules may include successful completion of examinations for applicants for pharmacy technician certificates. If such examination rules are adopted, the commission shall prepare or determine the nature of, and supervise the grading of the examinations. The commission may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The commission may disapprove or revoke approval of any training program for failure to conform to commission rules. In the case of the disapproval or revocation of approval of a training program by the commission, a hearing shall be conducted in accordance with ~~((RCW 18.64.160))~~ section 31 of this act, and appeal may be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

Sec. 39. RCW 18.64A.060 and 2013 c 19 s 38 are each amended to read as follows:

No pharmacy licensed in this state shall utilize the services of pharmacy ancillary personnel without approval of the commission.

Any pharmacy licensed in this state may apply to the commission for permission to use the services of pharmacy ancillary personnel. The application shall be accompanied by a fee and shall comply with administrative procedures and administrative requirements set pursuant to RCW 43.70.250 and 43.70.280, shall detail the manner and extent to which the pharmacy ancillary personnel would be used and supervised, and shall provide other information in such form as the secretary may require.

The commission may approve or reject such applications. In addition, the commission may modify the proposed utilization of pharmacy ancillary personnel and approve the application as modified. Whenever it appears to the commission that pharmacy ancillary personnel are being utilized in a manner inconsistent with the approval granted, the commission may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of approval, a hearing shall be conducted in accordance with ~~((chapter 18.64 RCW, as now or hereafter amended,))~~ section 31 of this act and appeal may be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 40. A new section is added to chapter 69.38 RCW to read as follows:

Chapter 18.64 RCW governs the denial of licenses and the discipline of persons licensed under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a license under this chapter.

Sec. 41. RCW 69.45.080 and 2013 c 19 s 84 are each amended to read as follows:

(1) The manufacturer is responsible for the actions and conduct of its representatives with regard to drug samples.

~~((The commission may hold a public hearing to examine a possible violation and may require a designated representative of the manufacturer to attend.~~

~~((3) If a manufacturer fails to comply with this chapter following notification by the commission, the commission may~~

~~impose a civil penalty of up to five thousand dollars. The commission shall take no action to impose any civil penalty except pursuant to a hearing held in accordance with chapter 34.05 RCW.~~

~~((4)) Chapter 18.64 RCW governs the denial of licenses and the discipline of persons registered under this chapter.~~

(3) Specific drug samples which are distributed in this state in violation of this chapter, following notification by the commission, shall be subject to seizure following the procedures set out in RCW 69.41.060.

NEW SECTION. Sec. 42. A new section is added to chapter 69.45 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter.

Sec. 43. RCW 69.43.100 and 2013 c 19 s 74 are each amended to read as follows:

~~((The pharmacy quality assurance commission shall have the power to refuse, suspend, or revoke the permit of any manufacturer or wholesaler.))~~ In addition to any other grounds, the pharmacy quality assurance commission may take action against a permit issued under this chapter upon proof that:

(1) The permit was procured through fraud, misrepresentation, or deceit;

(2) The permittee has violated or has permitted any employee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the pharmacy quality assurance commission.

Sec. 44. RCW 69.43.140 and 2013 c 19 s 78 are each amended to read as follows:

~~((In addition to the other penalties provided for in this chapter or in chapter 18.64 RCW, the pharmacy quality assurance commission may impose a civil penalty, not to exceed ten thousand dollars for each violation, on any licensee or registrant who has failed to comply with this chapter or the rules adopted under this chapter. In the case of a continuing violation, every day the violation continues shall be considered a separate violation.))~~ Chapter 18.64 RCW governs the denial of permits and the discipline of permits issued under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a permit under this chapter.

(2) The pharmacy quality assurance commission may waive ~~((the suspension or revocation of a license or registration))~~ action taken under chapter 18.64 RCW against a permit issued under this chapter ((18.64 RCW, or waive any civil penalty under this chapter,)) if the ~~((licensee or registrant))~~ permittee establishes that he or she acted in good faith to prevent violations of this chapter, and the violation occurred despite the licensee's or registrant's exercise of due diligence. In making such a determination, the pharmacy quality assurance commission may consider evidence that an employer trained employees on how to sell, transfer, or otherwise furnish substances specified in RCW 69.43.010(1) in accordance with applicable laws.

Sec. 45. RCW 69.50.302 and 2013 c 19 s 98 are each amended to read as follows:

~~((a) [(1)]))~~ (1) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain annually a registration issued by the ((department)) commission in accordance with the commission's rules.

~~((b) [(2)]))~~ (2) A person registered by the ((department)) commission under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research

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with those substances to the extent authorized by the registration and in conformity with this Article.

~~((e)-(3))~~ (3) The following persons need not register and may lawfully possess controlled substances under this chapter:

~~((1)-(a))~~ (a) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of business or employment. This exemption shall not include any agent or employee distributing sample controlled substances to practitioners without an order;

~~((2)-(b))~~ (b) A common or contract carrier or warehouse operator, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

~~((3)-(c))~~ (c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a substance included in Schedule V.

~~((4)-(4))~~ (4) The commission may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers upon finding it consistent with the public health and safety. Personal practitioners licensed or registered in the state of Washington under the respective professional licensing acts shall not be required to be registered under this chapter unless the specific exemption is denied pursuant to ~~((RCW 69.50.305))~~ sections 31 and 33 of this act for violation of any provisions of this chapter.

~~((e)-(5))~~ (5) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

~~((f)-(6))~~ (6) The department, at the direction of the commission, may inspect the establishment of a registrant or applicant for registration in accordance with rules adopted by the commission.

Sec. 46. RCW 69.50.303 and 2013 c 19 s 99 are each amended to read as follows:

~~((a)-(1))~~ (1) The ~~((department))~~ commission shall register an applicant to manufacture ~~((or))~~ distribute, dispense, or conduct research with controlled substances included in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless the commission determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the commission shall consider the following factors:

~~((1)-(a))~~ (a) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

~~((2)-(b))~~ (b) compliance with applicable state and local law;

~~((3)-(c))~~ (c) promotion of technical advances in the art of manufacturing controlled substances and the development of new substances;

~~((4)-(d))~~ (d) any convictions of the applicant under any laws of another country or federal or state laws relating to any controlled substance;

~~((5)-(e))~~ (e) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

~~((6)-(f))~~ (f) furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

~~((7)-(g))~~ (g) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

~~((8)-(h))~~ (h) any other factors relevant to and consistent with the public health and safety.

~~((b)-(2))~~ (2) Registration under subsection ~~((a)-(1))~~ (1) of this section does not entitle a registrant to manufacture or distribute controlled substances included in Schedule I or II other than those specified in the registration.

~~((e)-(3))~~ (3) Practitioners must be registered, or exempted under RCW 69.50.302~~((4)-(4))~~ (4), to dispense any controlled substances or to conduct research with controlled substances included in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The commission need not require separate registration under this Article for practitioners engaging in research with nonnarcotic substances included in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under federal law to conduct research with substances included in Schedule I may conduct research with substances included in Schedule I within this state upon furnishing the commission evidence of that federal registration.

~~((d)-(4))~~ (4) A manufacturer or distributor registered under the federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., may submit a copy of the federal application as an application for registration as a manufacturer or distributor under this section. The commission may require a manufacturer or distributor to submit information in addition to the application for registration under the federal act.

Sec. 47. RCW 69.50.304 and 2013 c 19 s 100 are each amended to read as follows:

~~((a)-(1-A))~~ (1) This chapter and chapter 18.64 RCW govern the denial of registrations and the discipline of registrations issued under RCW 69.50.303. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter.

(2) In addition to any other grounds, the commission may take action against the registration, or exemption from registration, under RCW 69.50.303 to manufacture, distribute, ~~((or))~~ dispense, or conduct research with a controlled substance ~~((may be suspended or revoked by the commission))~~ upon finding that the registrant has:

~~((1)-(a))~~ (a) furnished false or fraudulent material information in any application filed under this chapter;

~~((2)-(b))~~ (b) been convicted of a felony under any state or federal law relating to any controlled substance;

~~((3)-(c))~~ (c) had the registrant's federal registration suspended or revoked and is no longer authorized by federal law to manufacture, distribute, ~~((or))~~ dispense, or conduct research with controlled substances; or

~~((4)-(d))~~ (d) committed acts that would render registration under RCW 69.50.303 inconsistent with the public interest as determined under that section.

~~((b)-(2))~~ (3) The commission may limit revocation or suspension of a registration to the particular controlled substance or schedule of controlled substances, with respect to which grounds for revocation or suspension exist.

~~((e)-(3))~~ (4) If the commission suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

~~((d)-(4))~~ (5) The ~~((department))~~ commission may seize or place under seal any controlled substance owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by the registration. The controlled substance must be held for the benefit of the registrant or the registrant's successor in interest. The ~~((department))~~ commission shall notify a registrant, or the registrant's successor in interest, who has any controlled substance seized or placed under seal, of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The ~~((department))~~ commission may not dispose of any controlled substance seized or placed under seal under this subsection until the expiration of ~~((one hundred eighty))~~ 180 days after the controlled substance was seized or placed under seal. The costs incurred by the ~~((department))~~ commission in seizing, placing under seal, maintaining custody, and disposing of any controlled substance under this subsection may be recovered from the registrant, any proceeds obtained from the disposition of the controlled substance, or from both. Any balance remaining after the costs have been recovered from the proceeds of any disposition must be delivered to the registrant or the registrant's successor in interest.

~~((e)-(5))~~ (6) The ~~((department))~~ commission shall promptly notify the drug enforcement administration of all orders restricting, suspending, or revoking registration and all forfeitures of controlled substances.

Sec. 48. RCW 69.50.310 and 2013 c 19 s 104 are each amended to read as follows:

On and after September 21, 1977, a humane society and animal control agency may apply to the ~~((department))~~ commission for registration pursuant to the applicable provisions of this chapter for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any agency so registered shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering this drug.

The ~~((department))~~ commission may issue a limited registration to carry out the provisions of this section. ~~((The commission shall promulgate such rules as it deems necessary to insure strict compliance with the provisions of this section. The commission may suspend or revoke registration upon determination that the person administering sodium pentobarbital has not demonstrated adequate knowledge as herein provided. This authority is granted in addition to any other power to suspend or revoke registration as provided by law.))~~ Chapter 18.64 RCW governs the denial of licenses and the discipline of registrations issued under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter.

Sec. 49. RCW 69.50.320 and 2013 c 19 s 106 are each amended to read as follows:

The department of fish and wildlife may apply to the ~~((department of health))~~ commission for registration pursuant to the applicable provisions of this chapter to purchase, possess, and administer controlled substances for use in chemical capture programs. The department of fish and wildlife must not permit a person to administer controlled substances unless the person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

The ~~((department of health))~~ commission may issue a limited registration to carry out the provisions of this section. The commission may adopt rules to ensure strict compliance with the

provisions of this section. The commission, in consultation with the department of fish and wildlife, must by rule add or remove additional controlled substances for use in chemical capture programs. ~~((The))~~ Chapter 18.64 RCW governs the denial of licenses and the discipline of registrations issued under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter. In addition to any other grounds, the commission ~~((shall))~~ may suspend or revoke a registration issued under this chapter upon determination that the person administering controlled substances has not demonstrated adequate knowledge as required by this section. ~~((This authority is granted in addition to any other power to suspend or revoke registration as provided by law.))~~

Sec. 50. RCW 69.41.080 and 2013 c 19 s 57 are each amended to read as follows:

Humane societies and animal control agencies registered with the ~~((pharmacy quality assurance))~~ commission under chapter 69.50 RCW and authorized to euthanize animals may purchase, possess, and administer approved legend drugs for the sole purpose of sedating animals prior to euthanasia, when necessary, and for use in chemical capture programs. For the purposes of this section, "approved legend drugs" means those legend drugs designated by the commission by rule as being approved for use by such societies and agencies for animal sedating or capture and does not include any substance regulated under chapter 69.50 RCW. Any society or agency so registered shall not permit persons to administer any legend drugs unless such person has demonstrated to the satisfaction of the commission adequate knowledge of the potential hazards involved in and the proper techniques to be used in administering the drugs.

The commission shall promulgate rules to regulate the purchase, possession, and administration of legend drugs by such societies and agencies and to insure strict compliance with the provisions of this section. Such rules shall require that the storage, inventory control, administration, and recordkeeping for approved legend drugs conform to the standards adopted by the commission under chapter 69.50 RCW to regulate the use of controlled substances by such societies and agencies. ~~((The))~~ Chapter 18.64 RCW governs the denial of licenses and the discipline of registrations issued under chapter 69.50 RCW. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter. In addition to any other grounds, the commission may suspend or revoke a registration issued under chapter 69.50 RCW upon a determination by the commission that the person administering legend drugs has not demonstrated adequate knowledge as herein provided. ~~((This authority is granted in addition to any other power to suspend or revoke a registration as provided by law.))~~

NEW SECTION. Sec. 51. The following acts or parts of acts are each repealed:

(1) RCW 18.64.200 (Refusal, suspension, and revocation of other licenses—Appeal procedure) and 2013 c 19 s 15, 1963 c 38 s 11, & 1909 c 213 s 11;

(2) RCW 18.64.390 (Nonresident pharmacies—Violations—Penalties) and 2013 c 19 s 23 & 1991 c 87 s 5; and

(3) RCW 69.50.305 (Procedure for denial, suspension, or revocation of registration) and 2013 c 19 s 101 & 1971 ex.s. c 308 s 69.50.305."

On page 1, line 2 of the title, after "tools;" strike the remainder of the title and insert "amending RCW 18.46.010, 18.46.050, 18.46.130, 70.42.010, 70.42.130, 70.42.180, 70.127.010, 70.127.170, 70.127.213, 70.230.010, 70.230.070, 71.12.710, 71.12.500, 70.38.025, 70.38.111, 70.38.260, 71.24.037, 70.170.020, 18.64.005, 18.64.011, 18.64.047, 18.64.165,

SEVENTEENTH DAY, JANUARY 24, 2024

18.64A.020, 18.64A.060, 69.45.080, 69.43.100, 69.43.140, 69.50.302, 69.50.303, 69.50.304, 69.50.310, 69.50.320, and 69.41.080; reenacting and amending RCW 71.12.455 and 71.24.025; adding a new section to chapter 18.46 RCW; adding new sections to chapter 70.42 RCW; adding new sections to chapter 70.127 RCW; adding a new section to chapter 70.230 RCW; adding a new section to chapter 71.12 RCW; adding a new section to chapter 71.24 RCW; adding new sections to chapter 18.64 RCW; adding a new section to chapter 69.38 RCW; adding a new section to chapter 69.45 RCW; repealing RCW 18.64.200, 18.64.390, and 69.50.305; and prescribing penalties."

Senator Cleveland spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of striking amendment no. 485 by Senator Cleveland to Substitute Senate Bill No. 5271.

The motion by Senator Cleveland carried and striking amendment no. 485 was adopted by voice vote.

MOTION

On motion of Senator Cleveland, the rules were suspended, Engrossed Substitute Senate Bill No. 5271 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland and Rivers spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5271.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5271 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Cleveland, Conway, Dhingra, Frame, Hansen, Hasegawa, Hunt, Kauffman, Keiser, Kuderer, Lias, Lovelett, Lovick, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Dozier, Fortunato, Gildon, Hawkins, Holy, King, MacEwen, McCune, Muzzall, Padden, Rivers, Schoesler, Short, Torres, Wagoner, Warnick, Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5271, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5481, by Senators Cleveland, and Pedersen

Concerning the uniform telemedicine act.

MOTIONS

On motion of Senator Cleveland, Substitute Senate Bill No. 5481 was substituted for Senate Bill No. 5481 and the substitute bill was placed on the second reading and read the second time.

2024 REGULAR SESSION

SUBSTITUTE SENATE BILL NO. 5481, by Committee on Health & Long Term Care (originally sponsored by Senators Cleveland and Pedersen; by request of Uniform Law Commission)

Revised for Substitute: Concerning the uniform law commission's uniform telehealth act.

MOTION

Senator Cleveland moved that the following striking amendment no. 486 by Senator Cleveland be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. SHORT TITLE. This act may be known and cited as the uniform telehealth act.

"NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Disciplining authority" means an entity to which a state has granted the authority to license, certify, or discipline individuals who provide health care.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Health care" means care, treatment, or a service or procedure, to maintain, monitor, diagnose, or otherwise affect an individual's physical or behavioral health, injury, or condition.

(4) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW;

(c) A podiatric physician and surgeon licensed under chapter 18.22 RCW;

(d) An advanced registered nurse practitioner licensed under chapter 18.79 RCW;

(e) A naturopath licensed under chapter 18.36A RCW;

(f) A physician assistant licensed under chapter 18.71A RCW; or

(g) A person who is otherwise authorized to practice a profession regulated under the authority of RCW 18.130.040 to provide health care in this state.

(5) "Professional practice standard" includes:

(a) A standard of care;

(b) A standard of professional ethics; and

(c) A practice requirement imposed by a disciplining authority.

(6) "Scope of practice" means the extent of a health care practitioner's authority to provide health care.

(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(8) "Telecommunication technology" means technology that supports communication through electronic means. The term is not limited to regulated technology or technology associated with a regulated industry.

(9) "Telehealth" includes telemedicine and means the use of synchronous or asynchronous telecommunication technology by a practitioner to provide health care to a patient at a different physical location than the practitioner.

(10) "Telehealth services" means health care provided through telehealth.

"NEW SECTION. Sec. 3. SCOPE. (1) This chapter applies

to the provision of telehealth services to a patient located in this state.

(2) This chapter does not apply to the provision of telehealth services to a patient located outside this state.

NEW SECTION. Sec. 4. TELEHEALTH AUTHORIZATION. (1) A health care practitioner may provide telehealth services to a patient located in this state if the services are consistent with the health care practitioner's scope of practice in this state, applicable professional practice standards in this state, and requirements and limitations of federal law and law of this state.

(2) This chapter does not authorize provision of health care otherwise regulated by federal law or law of this state, unless the provision of health care complies with the requirements, limitations, and prohibitions of the federal law or law of this state.

(3) A practitioner-patient relationship may be established through telehealth.

NEW SECTION. Sec. 5. PROFESSIONAL PRACTICE STANDARD. (1) A health care practitioner who provides telehealth services to a patient located in this state shall provide the services in compliance with the professional practice standards applicable to a health care practitioner who provides comparable in-person health care in this state. Professional practice standards and law applicable to the provision of health care in this state, including standards and law relating to prescribing medication or treatment, identity verification, documentation, informed consent, confidentiality, privacy, and security, apply to the provision of telehealth services in this state.

(2) A disciplining authority in this state shall not adopt or enforce a rule that establishes a different professional practice standard for telehealth services merely because the services are provided through telehealth or limits the telecommunication technology that may be used for telehealth services.

NEW SECTION. Sec. 6. OUT-OF-STATE HEALTH CARE PRACTITIONER. An out-of-state health care practitioner may provide telehealth services to a patient located in this state if the out-of-state health care practitioner:

(1) Holds a current license or certification required to provide health care in this state or is otherwise authorized to provide health care in this state, including through a multistate compact of which this state is a member; or

(2) Provides the telehealth services:

(a) In the form of a consultation with a health care practitioner who has a practitioner-patient relationship with the patient and who remains responsible for diagnosing and treating the patient in the state; or

(b) In the form of a specialty assessment, diagnosis, or recommendation for treatment.

NEW SECTION. Sec. 7. LOCATION OF CARE—VENUE. (1) The provision of a telehealth service under this chapter occurs at the patient's location at the time the service is provided.

(2) In a civil action arising out of a health care practitioner's provision of a telehealth service to a patient under this chapter, brought by the patient or the patient's personal representative, conservator, guardian, or a person entitled to bring a claim under the state's wrongful death statute, venue is proper in the patient's county of residence in this state or in another county authorized by law.

NEW SECTION. Sec. 8. RULE-MAKING AUTHORITY. Disciplining authorities may adopt rules to administer, enforce, implement, or interpret this chapter.

NEW SECTION. Sec. 9. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, a court shall consider the promotion of uniformity of the law among jurisdictions that enact the uniform

telehealth act.

NEW SECTION. Sec. 10. Nothing in this act shall be construed to require a health carrier to reimburse for telehealth services that do not meet statutory requirements for reimbursement of telemedicine services.

Sec. 11. RCW 28B.20.830 and 2021 c 157 s 9 are each amended to read as follows:

(1) The collaborative for the advancement of ~~((telemedicine))~~ telehealth is created to enhance the understanding and use of health services provided through ~~((telemedicine))~~ telehealth and other similar models in Washington state. The collaborative shall be hosted by the University of Washington telehealth services and shall be comprised of one member from each of the two largest caucuses of the senate and the house of representatives, and representatives from the academic community, hospitals, clinics, and health care providers in primary care and specialty practices, carriers, and other interested parties.

(2) By July 1, 2016, the collaborative shall be convened. The collaborative shall develop recommendations on improving reimbursement and access to services, including originating site restrictions, provider to provider consultative models, and technologies and models of care not currently reimbursed; identify the existence of ~~((telemedicine))~~ telehealth best practices, guidelines, billing requirements, and fraud prevention developed by recognized medical and ~~((telemedicine))~~ telehealth organizations; and explore other priorities identified by members of the collaborative. After review of existing resources, the collaborative shall explore and make recommendations on whether to create a technical assistance center to support providers in implementing or expanding services delivered through ~~((telemedicine))~~ telehealth technologies.

(3) The collaborative must submit an initial progress report by December 1, 2016, with follow-up policy reports including recommendations by December 1, 2017, December 1, 2018, and December 1, 2021. The reports shall be shared with the relevant professional associations, governing boards or commissions, and the health care committees of the legislature.

(4) The collaborative shall study store and forward technology, with a focus on:

(a) Utilization;

(b) Whether store and forward technology should be paid for at parity with in-person services;

(c) The potential for store and forward technology to improve rural health outcomes in Washington state; and

(d) Ocular services.

(5) The meetings of the board shall be open public meetings, with meeting summaries available on a web page.

(6) The collaborative must study the need for an established patient/provider relationship before providing audio-only ~~((telemedicine))~~ telehealth, including considering what types of services may be provided without an established relationship. By December 1, 2021, the collaborative must submit a report to the legislature on its recommendations regarding the need for an established relationship for audio-only ~~((telemedicine))~~ telehealth.

(7) The collaborative must review the proposal authored by the uniform law commission for the state to implement a process for out-of-state health care providers to register with the disciplinary authority regulating their profession in this state allowing that provider to provide services through telehealth or store and forward technology to persons located in this state. By December 1, 2024, the collaborative must submit a report to the legislature on its recommendations regarding the proposal.

(8) The future of the collaborative shall be reviewed by the legislature with consideration of ongoing technical assistance needs and opportunities. ~~((The collaborative terminates~~

~~December 31, 2023.~~)

(9) This section expires July 1, 2025.

NEW SECTION. Sec. 12. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. Sections 1 through 9 of this act constitute a new chapter in Title 18 RCW."

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "amending RCW 28B.20.830; adding a new chapter to Title 18 RCW; creating a new section; and providing an expiration date."

Senator Cleveland spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of striking amendment no. 486 by Senator Cleveland to Substitute Senate Bill No. 5481.

The motion by Senator Cleveland carried and striking amendment no. 486 was adopted by voice vote.

MOTION

On motion of Senator Cleveland, the rules were suspended, Engrossed Substitute Senate Bill No. 5481 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland and Rivers spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5481.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5481 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5481, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5815, by Senators Muzzall, Conway, Dhingra, Holy, Padden, Rivers, and Wagoner

Concerning the physician assistant compact.

MOTIONS

On motion of Senator Muzzall, Substitute Senate Bill No. 5815 was substituted for Senate Bill No. 5815 and the substitute bill was placed on the second reading and read the second time.

SUBSTITUTE SENATE BILL NO. 5815, by Committee on Health & Long-Term Care (originally sponsored by Senators Muzzall, Conway, Dhingra, Holy, Padden, Rivers, and Wagoner)

Revised for Substitute: Adopting the physician assistant compact.

On motion of Senator Muzzall, the rules were suspended, Substitute Senate Bill No. 5815 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Muzzall and Cleveland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5815.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5815 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

SUBSTITUTE SENATE BILL NO. 5815, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5588, by Senators Nobles, Wagoner, Dhingra, Lovelett, Pedersen, Saldaña, Wellman, and Wilson, C.

Concerning the mental health sentencing alternative.

MOTION

On motion of Senator Nobles, Substitute Senate Bill No. 5588 was substituted for Senate Bill No. 5588 and the substitute bill was placed on the second reading and read the second time.

SUBSTITUTE SENATE BILL NO. 5588, by Senate Committee on Law & Justice (originally sponsored by Nobles, Wagoner, Dhingra, Lovelett, Pedersen, Saldaña, Wellman, and Wilson, C.)

MOTION

Senator Padden moved that the following amendment no. 487 by Senator Padden be adopted:

On page 2, line 16, after "diagnosis" insert "and proposed treatment plan"

Senator Padden spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 487 by Senator Padden on page 2,

line 16 to Substitute Senate Bill No. 5588.

The motion by Senator Padden did not carry and amendment no. 487 was not adopted by voice vote.

MOTION

On motion of Senator Nobles, the rules were suspended, Substitute Senate Bill No. 5588 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Nobles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5588.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5588 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 19; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Cleveland, Conway, Dhingra, Frame, Hansen, Hasegawa, Hunt, Kauffman, Keiser, Kuderer, Liias, Lovelett, Lovick, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Saldaña, Salomon, Shewmake, Stanford, Trudeau, Valdez, Van De Wege, Wagoner, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Dozier, Fortunato, Gildon, Hawkins, Holy, King, MacEwen, McCune, Muzzall, Padden, Rivers, Schoesler, Short, Torres, Warnick, Wilson, J. and Wilson, L.

SUBSTITUTE SENATE BILL NO. 5588, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5690, by Senators Dhingra, Nobles, Saldaña, and Wilson, C.

Concerning conditional release transition teams.

MOTION

On motion of Senator Dhingra, Substitute Senate Bill No. 5690 was substituted for Senate Bill No. 5690 and the substitute bill was placed on the second reading and read the second time.

SUBSTITUTE SENATE BILL NO. 5690, by Senate Committee on Human Services (originally sponsored by Dhingra, Nobles, Saldaña, and Wilson, C.)

MOTION

Senator Dhingra moved that the following amendment no. 478 by Senator Dhingra be adopted:

Beginning on page 2, line 32, strike all of sections 2 and 3 and insert the following:

"Sec. 2. RCW 10.77.010 and 2023 c 453 s 2 and 2023 c 120 s 5 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

(2) "Authority" means the Washington state health care

authority.

(3) "Clinical intervention specialist" means a licensed professional with prescribing authority who is employed by or contracted with the department to provide direct services, enhanced oversight and monitoring of the behavioral health status of in-custody defendants who have been referred for evaluation or restoration services related to competency to stand trial and who coordinate treatment options with forensic navigators, the department, and jail health services.

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less-restrictive setting.

(5) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

(6) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms. A conditional release includes partial conditional release where a person continues inpatient at a state hospital under RCW 10.77.150, or conditional release to a less restrictive setting that meets the minimum requirements of RCW 10.77.175 where the person resides in the community.

(7) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(8) "Department" means the state department of social and health services.

(9) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(10) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(11) "Developmental disabilities professional" means a person who has specialized training and experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(12) "Developmental disability" means the condition as defined in RCW 71A.10.020.

(13) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(14) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(15) "Genuine doubt as to competency" means that there is reasonable cause to believe, based upon actual interactions with or observations of the defendant or information provided by counsel, that a defendant is incompetent to stand trial.

(16) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct.

(17) "History of one or more violent acts" means violent acts committed during: (a) The 10-year period of time prior to the

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filing of criminal charges; plus (b) the amount of time equal to time spent during the 10-year period in a mental health facility or in confinement as a result of a criminal conviction.

(18) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

(19) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(20) "Indigent" means any person who is indigent as defined in RCW 10.101.010, or financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual release, and a projected possible date for release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(22) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW;

(c) A psychiatric advanced registered nurse practitioner, as defined in RCW 71.05.020; or

(d) A social worker with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(23) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

(24) "Secretary" means the secretary of the department of social and health services or his or her designee.

(25) "Treatment" means any currently standardized medical or mental health procedure including medication.

(26) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others.

(27) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

Sec. 3. RCW 10.77.150 and 2023 c 120 s 8 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140 may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. ~~((Conditional release may also contemplate partial release for work, training, or educational purposes.))~~

(2) In instances in which persons examined pursuant to RCW 10.77.140 have not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for conditional release to the court of the county that ordered the person's commitment. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the person may be conditionally released. ~~((Conditional release may also include partial release for work, training, or educational purposes.))~~ Notice of the secretary's recommendation under this subsection must be provided to the person for whom the secretary has made the recommendation for conditional release and to his or her attorney.

(3)(a) The court of the county which ordered the person's commitment, upon receipt of an application or recommendation for conditional release with the secretary's recommendation for ~~((conditional release))~~ upon which the secretary reasonably believes the person can be conditionally released for partial conditional release or that meet the minimum statutory requirements in RCW 10.77.160 and 10.77.175 for conditional release to a less restrictive alternative, shall within 30 days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary.

(b) The prosecuting attorney shall represent the state at such hearings and shall have the right to have the person examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent(=) and ~~((he or she))~~ so requests, the court shall assist the person in obtaining a qualified expert or professional person to examine the person on ~~((his or her))~~ the person's behalf. An expert or professional person obtained by an indigent person who is committed to state psychiatric care following acquittal by reason of insanity shall be compensated out of funds of the office of public defense as provided in policies and procedures under chapter 2.70 RCW, in a manner consistent with the rules of professional conduct and the standards for indigent defense.

(c) The issue to be determined at such a hearing is whether or not the person may be released conditionally ~~((to less restrictive~~

~~alternative treatment under the supervision of a multidisciplinary transition team under conditions imposed by the court, including access to services under RCW 10.77.175 without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security)) under conditions imposed by the court without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.~~

(d) In cases that come before the court under subsection (1) or (2) of this section, the court may deny conditional release (~~to a less restrictive alternative~~) only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary.

(4) If the order of conditional release provides for partial conditional release, the person shall be under the continued supervision of the secretary. The facility recommendation to the secretary for review of partial conditional release that allows unsupervised community access off the grounds of the state hospital will be informed by advisement of a community corrections officer.

(5)(a) If the order of conditional release provides for the conditional release of the person to a less restrictive alternative, ((including residential treatment or treatment in the community,)) the conditional release order ((must also)) shall include:

~~((a))~~ (i) A requirement for the committed person to be supervised by a multidisciplinary transition team, including a specially trained community corrections officer, a representative of the department of social and health services, and a representative of the community behavioral health agency providing treatment to the person under RCW 10.77.175.

~~((b))~~ (A) The court may omit appointment of the representative of the community behavioral health agency if the conditional release order does not require participation in behavioral health treatment;

~~((c))~~ (B) The court may omit the appointment of a community corrections officer if it makes a special finding that the appointment of a community corrections officer would not facilitate the success of the person, ~~((or))~~ and the safety of the person and the community;

~~((d))~~ (ii) A requirement for the person to comply with conditions of supervision established by the court which shall include at a minimum reporting as directed to a designated member of the transition team, remaining within prescribed geographical boundaries, and notifying the transition team prior to making any change in the person's address or employment. If the person is not in compliance with the court-ordered conditions of release, the community corrections officer or another designated transition team member shall notify the secretary or the secretary's designee; and

~~((e))~~ (iii) If the court requires participation in behavioral health treatment, the name of the licensed or certified behavioral health agency responsible for identifying the services the person will receive under RCW 10.77.175, and a requirement that the person cooperate with the services planned by the licensed or certified behavioral health agency. The licensed or certified behavioral health agency must comply with the reporting requirements of RCW 10.77.160, and must immediately report to the court, prosecutor, and defense counsel any substantial withdrawal or disengagement from medication or treatment, or any change in the person's mental health condition that renders him or her a potential risk to the public.

~~((5))~~ (b) Before ordering conditional release to a proposed

less restrictive alternative, the court must consider the report of the community corrections officer with any additional recommended conditions, and the recommendation of the independent public safety review panel under RCW 10.77.270. The court may not order conditional release to a proposed less restrictive alternative unless conditions ensure the conditional release will satisfy the minimum requirements set forth in this section and RCW 10.77.175.

~~((6))~~ (5) The role of the transition team appointed under subsection ~~((4))~~ of this section shall be to facilitate the success of the person on the conditional release order by monitoring the person's progress in treatment, compliance with court-ordered conditions, and to problem solve around extra support the person may need or circumstances that may arise that threaten the safety of the person or the community. The transition team may develop a monitoring plan that may be carried out by any member of the team. The transition team shall meet according to a schedule developed by the team, and shall communicate as needed if issues arise that require the immediate attention of the team.

~~((6))~~ (7) The department of corrections shall collaborate with the department to develop specialized training for community corrections officers under this section. The lack of a trained community corrections officer must not be the cause of delay to entry of a conditional release order. Another community corrections officer may be appointed if no specially trained officer is available.

~~((7))~~ (8) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial, or sooner with the support of the department.

~~((8))~~ (9) A person examined under RCW 10.77.140 or the department may make a motion for ~~((limited))~~ partial conditional release under this section, on the grounds that there is insufficient evidence that the person may be released conditionally to less restrictive alternative treatment under subsection (3)(c) of this section, but the person would benefit from the opportunity to exercise increased privileges while remaining under the custody and supervision of the department and with the supervision of the department these increased privileges can be exercised without substantial danger to other persons or substantial likelihood of committing criminal acts jeopardizing public safety or security. The department may respond to a person's application for conditional release by instead supporting ~~((limited))~~ partial conditional release."

Senator Dhingra spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 478 by Senator Dhingra on page 2, line 38 to Substitute Senate Bill No. 5690.

The motion by Senator Dhingra carried and amendment no. 478 was adopted by voice vote.

MOTION

On motion of Senator Dhingra, the rules were suspended, Engrossed Substitute Senate Bill No. 5690 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Dhingra spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5690.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed

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Substitute Senate Bill No. 5690 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5690, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Pedersen, the Senate advanced to the seventh order of business.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5334, by Senate Committee on Local Government, Land Use & Tribal Affairs (originally sponsored by Lovelett, Kuderer, Frame, Hasegawa, Nguyen, Nobles, and Wilson, C.)

Providing a local government option for the funding of essential affordable housing programs.

The bill was read on Third Reading.

Senator Lovelett spoke in favor of passage of the bill.
 Senator Torres spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5334.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5334 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Cleveland, Conway, Dhingra, Frame, Hansen, Hasegawa, Hawkins, Hunt, Kauffman, Keiser, Kuderer, Lovelett, Lovick, Nguyen, Nobles, Pedersen, Randall, Robinson, Saldaña, Salomon, Shewmake, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Boehnke, Braun, Dozier, Fortunato, Gildon, Holy, King, Liias, MacEwen, McCune, Mullet, Muzzall, Padden, Rivers, Schoesler, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5334, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Pedersen, the Senate reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 5835, by Senator Wilson, J.

Concerning transparency in rule making.

MOTIONS

On motion of Senator Wilson, L., Substitute Senate Bill No. 5835 was substituted for Senate Bill No. 5835 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Wilson, L., the rules were suspended, Substitute Senate Bill No. 5835 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wilson, L. and Hunt spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5835.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5835 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

SUBSTITUTE SENATE BILL NO. 5835, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5788, by Senators Pedersen, Wagoner, Kuderer, Mullet, and Saldaña

Concerning service animal training.

MOTIONS

On motion of Senator Pedersen, Substitute Senate Bill No. 5788 was substituted for Senate Bill No. 5788 and the substitute bill was placed on the second reading and read the second time.

SUBSTITUTE SENATE BILL NO. 5788, by Senate Committee on Law & Justice (originally sponsored by Pedersen, Wagoner, Kuderer, Mullet, and Saldaña)

Senator Pedersen moved that the following striking amendment no. 481 by Senators Padden, Pedersen and Wagoner be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 49.60.040 and 2020 c 85 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter

unless the context clearly requires otherwise.

(1) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur.

(2) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution: PROVIDED FURTHER, That this definition, as it relates to "service animal trainers" and "service animal trainees" as those terms are defined in this section, shall not include those places of public accommodation conducted for housing or lodging of transient guests.

(3) "Commission" means the Washington state human rights commission.

(4) "Complainant" means the person who files a complaint in a real estate transaction.

(5) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units.

(6) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred.

(7)(a) "Disability" means the presence of a sensory, mental, or physical impairment that:

- (i) Is medically cognizable or diagnosable; or
 - (ii) Exists as a record or history; or
 - (iii) Is perceived to exist whether or not it exists in fact.
- (b) A disability exists whether it is temporary or permanent,

common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, ~~((genitor-urinary, genitourinary))~~ genitourinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

(i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

(ii) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

(e) For purposes of (d) of this subsection, a limitation is not substantial if it has only a trivial effect.

(8) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons.

(9) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(10) "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person.

(11) "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit.

(12) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer.

(13) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.

(14) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual

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orientation, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, to be treated as not welcome, accepted, desired, or solicited.

(15) "Honorably discharged veteran or military status" means a person who is:

- (a) A veteran, as defined in RCW 41.04.007; or
- (b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

(16) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(17) "Marital status" means the legal status of being married, single, separated, divorced, or widowed.

(18) "National origin" includes "ancestry."

(19) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof.

(20) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building.

(21) "Race" is inclusive of traits historically associated or perceived to be associated with race including, but not limited to, hair texture and protective hairstyles. For purposes of this subsection, "protective hairstyles" includes, but is not limited to, such hairstyles as afros, braids, locks, and twists.

(22) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services.

(23) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

(24) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction.

(25) "Service animal" means any dog or miniature horse (~~as discussed in RCW 49.60.214,~~) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks. This subsection does not apply to

RCW 49.60.222 through 49.60.227 with respect to housing accommodations or real estate transactions.

(26) "Service animal trainee" means any dog or miniature horse that is undergoing training to become a service animal.

(27) "Service animal trainer" means an individual exercising care, custody, and control over a service animal trainee during a course of training designed to develop the service animal trainee into a service animal.

(28) "Sex" means gender.

~~((27))~~ (29) "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

Sec. 2. RCW 49.60.214 and 2018 c 176 s 4 are each amended to read as follows:

(1) It shall be a civil infraction under chapter 7.80 RCW for any person to misrepresent an animal as a service animal or service animal trainee. A violation of this section occurs when a person:

(a) Expressly or impliedly represents that an animal is a service animal (~~as defined in RCW 49.60.040~~) or service animal trainee for the purpose of securing the rights or privileges afforded disabled persons accompanied by service animals set forth in state or federal law; and

(b) Knew or should have known that the animal in question did not meet the definition of a service animal or service animal trainee.

(2)(a) An enforcement officer as defined under RCW 7.80.040 may investigate and enforce this section by making an inquiry of the person accompanied by the animal in question and issuing a civil infraction. Refusal to answer the questions allowable under (b) of this subsection shall create a presumption that the animal is not a service animal or service animal trainee and the enforcement officer may issue a civil infraction and require the person to remove the animal from the place of public accommodation.

(b) An enforcement officer or place of public accommodation shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal or service animal trainee. An enforcement officer or place of public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained or is in training to perform. An enforcement officer or place of public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, or require that the service animal demonstrate its task. Generally, an enforcement officer or place of public accommodation may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for a person with a disability, such as a dog is observed guiding a person who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to a person with an observable mobility disability.

~~((3) A place of public accommodation shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability in accordance with RCW 49.60.040(24) if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a facility, a place of public accommodation shall act in accordance with all applicable laws~~

and regulations.)

Sec. 3. RCW 49.60.215 and 2020 c 52 s 13 are each amended to read as follows:

(1) It shall be an unfair practice for any person or the person's agent or employee to ~~((commit))~~:

(a) Commit an act which directly or indirectly results in any distinction, restriction, or discrimination ~~((, or the requiring of))~~;

(b) Require any person to pay a larger sum than the uniform rates charged other persons ~~((, or the refusing or withholding))~~;

(c) Refuse or withhold from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement ~~((, except for))~~.

(2) Notwithstanding subsection (1) of this section, a person or the person's agent or employee may enforce conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, national origin, citizenship or immigration status, sexual orientation, sex, honorably discharged veteran or military status, status as a mother breastfeeding her child, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability: PROVIDED, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a person with a disability except as otherwise required by law: PROVIDED, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice.

(3) A place of public accommodation must make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability in accordance with RCW 49.60.040(25) if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a facility, a place of public accommodation must act in accordance with all applicable laws and regulations.

(4) If a place of public accommodation customarily charges a person for damages that the person causes to the place, the place may charge a service animal trainer for damages that a service animal trainee causes to the place.

(5) A service animal trainer must maintain control of a service animal trainee. Except as provided in this subsection, control must be exerted by means of a harness, leash, or other tether. If the use of a harness, leash, or other tether would interfere with the ability of the animal to do the work or perform the tasks for which the animal is being trained, control may be exerted by the effective use of voice commands, signals, or other means. If an animal is not under control as required in this subsection, a place of public accommodation may consider the animal to be out of control for purposes of subsection (6) of this section.

(6)(a) Except as provided in this subsection, a place of public accommodation may not deny a service animal trainer the right to be accompanied by a service animal trainee in any area of the place that is open to the public or to business invitees. A place of public accommodation may require a service animal trainer to remove a service animal trainee if:

(i) The animal is not trained to urinate and defecate outside of the facility or only in an appropriate place; or

(ii) The animal is out of control and effective action is not taken to control the animal.

(b) A place of public accommodation may impose legitimate requirements necessary for the safe operation of the place of public accommodation. The place of public accommodation must ensure that the safety requirements are based on actual risks, not

on speculation, stereotypes, or generalizations about persons with disabilities.

(c) A place of public accommodation may post signage indicating the misrepresentation of an animal as a service animal or service animal trainee may result in a civil infraction of up to \$500 pursuant to chapter 7.80 RCW.

(7) A place of public accommodation must make reasonable modifications as necessary to allow an opportunity for a person with a disability who is benefited by the use of a dog guide or service animal to obtain goods, services, and the use of the advantages, facilities, and privileges of the place. For purposes of this subsection, except as provided in subsection (6) of this section, in addition to any other applicable accommodation requirement, allowing the presence of the service animal is a reasonable modification.

(8) A place of public accommodation is not required to provide care or supervision for a service animal or service animal trainee.

(9) The protection granted under this section to a person with a disability or service animal trainer does not invalidate or limit the remedies, rights, and procedures of any other federal, state, or local laws that provide equal or greater protection of the rights of a person with a disability, service animal trainer, or individuals associated with a person with a disability."

On page 1, line 1 of the title, after "training;" strike the remainder of the title and insert "amending RCW 49.60.214 and 49.60.215; and reenacting and amending RCW 49.60.040."

The President declared the question before the Senate to be the adoption of striking amendment no. 481 by Senators Padden, Pedersen and Wagoner to Substitute Senate Bill No. 5788.

The motion by Senator Pedersen carried and striking amendment no. 481 was adopted by voice vote.

MOTION

On motion of Senator Pedersen, the rules were suspended, Engrossed Substitute Senate Bill No. 5788 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pedersen and Wagoner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5788.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5788 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5788, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SEVENTEENTH DAY, JANUARY 24, 2024

2024 REGULAR SESSION

SENATE BILL NO. 5936, by Senators Conway, Dozier, Frame, Hasegawa, Kuderer, Nobles, Rivers, and Salomon

The motion by Senator Wilson, J. carried and amendment no. 489 was adopted by voice vote.

Convening a palliative care benefit work group.

MOTION

MOTIONS

On motion of Senator Conway, Substitute Senate Bill No. 5936 was substituted for Senate Bill No. 5936 and the substitute bill was placed on the second reading and read the second time.

SUBSTITUTE SENATE BILL NO. 5936, by Senate Committee on Health & Long-Term Care (originally sponsored by Conway, Dozier, Frame, Hasegawa, Kuderer, Nobles, Rivers, and Salomon)

On motion of Senator Conway, the rules were suspended, Substitute Senate Bill No. 5936 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Conway spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5936.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5936 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

SUBSTITUTE SENATE BILL NO. 5936, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5824, by Senators Hunt, Keiser, Kuderer, Liias, and Nobles

Concerning the dissolution of libraries and library districts.

The measure was read the second time.

MOTION

Senator Wilson, J. moved that the following amendment no. 489 by Senator Wilson, J. be adopted:

On page 2, at the beginning of line 11, strike "35" and insert "25"

Senators Wilson, J. and Hunt spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 489 by Senator Wilson, J. on page 2, line 11 to Senate Bill No. 5824.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5824 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

ENGROSSED SENATE BILL NO. 5824, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Pedersen, the Senate advanced to the seventh order of business.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5010, by Senate Committee on Law & Justice (originally sponsored by Wilson, L., Holy, Wilson, J., Braun, Schoesler, King, Short, Fortunato, Padden, Torres, Dozier, Gildon, Rolfes, Wagoner, and Warnick)

Updating the endangerment with a controlled substance statute to include fentanyl or synthetic opioids.

The bill was read on Third Reading.

Senators Wilson, L. and Dhingra spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5010.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5010 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen,

Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senator Saldaña

ENGROSSED SUBSTITUTE SENATE BILL NO. 5010, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Pedersen, the Senate reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 5890, by Senators Valdez, Hunt, Dhingra, Kuderer, Nguyen, Nobles, and Pedersen

Reducing ballot rejection rates through updates to ballot curing, canvassing, reporting, and outreach processes.

MOTIONS

On motion of Senator Valdez, Substitute Senate Bill No. 5890 was substituted for Senate Bill No. 5890 and the substitute bill was placed on the second reading and read the second time.

SUBSTITUTE SENATE BILL NO. 5890, by Senate Committee on State Government & Elections (originally sponsored by Valdez, Hunt, Dhingra, Kuderer, Nguyen, Nobles, and Pedersen)

MOTION

Senator Fortunato moved that the following amendment no. 488 by Senators Fortunato and Valdez be adopted:

On page 2, line 37, after "(5)" insert "If a voter's ballot is rejected in two consecutive primary or general elections due to a mismatched signature, the auditor must contact the voter by telephone, text message, or email, if the auditor has a telephone number or email address on file for the voter, and request that the voter update their signature for the voter's registration file.

(6)"

Renumber the remaining subsection consecutively and correct any internal references accordingly.

Senators Fortunato and Valdez spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 488 by Senators Fortunato and Valdez on page 2, line 37 to Substitute Senate Bill No. 5890.

The motion by Senator Fortunato carried and amendment no. 488 was adopted by voice vote.

MOTION

On motion of Senator Valdez, the rules were suspended, Engrossed Substitute Senate Bill No. 5890 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Valdez spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5890.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5890 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Boehnke, Braun, Cleveland, Conway, Dhingra, Dozier, Fortunato, Frame, Gildon, Hansen, Hasegawa, Hawkins, Holy, Hunt, Kauffman, Keiser, King, Kuderer, Liias, Lovelett, Lovick, MacEwen, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Saldaña, Salomon, Schoesler, Shewmake, Short, Stanford, Torres, Trudeau, Valdez, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5890, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 4:17 p.m., on motion of Senator Pedersen, the Senate adjourned until 12:30 p.m. Thursday, January 25, 2024.

DENNY HECK, President of the Senate

SARAH BANNISTER, Secretary of the Senate

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