
SUBSTITUTE HOUSE BILL 2588

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Braddock, Moyer, Prentice, Franklin, Edmondson, Paris, Morris, Sprenkle, Ballard, Casada, Chandler, Winsley and Cantwell)

Read first time 02/07/92.

1 AN ACT Relating to drugs; amending RCW 18.64.011, 18.130.040,
2 18.130.175, 18.64.160, and 18.64A.050; reenacting and amending RCW
3 69.41.010 and 69.50.101; adding a new section to chapter 18.64 RCW;
4 adding a new section to chapter 18.64A RCW; and repealing RCW
5 18.64.260.

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

7 **Sec. 1.** RCW 18.64.011 and 1989 1st ex.s. c 9 s 412 are each
8 amended to read as follows:

9 Unless the context clearly requires otherwise, definitions of terms
10 shall be as indicated when used in this chapter.

11 ~~((1) "Person" means an individual, corporation, government,~~
12 ~~governmental subdivision or agency, business trust, estate, trust,~~
13 ~~partnership or association, or any other legal entity.~~

14 ~~(2) "Board" means the Washington state board of pharmacy.~~

1 ~~(3) "Drugs" means:~~

2 ~~(a) Articles recognized in the official United States pharmacopoeia~~
3 ~~or the official homeopathic pharmacopoeia of the United States;~~

4 ~~(b) Substances intended for use in the diagnosis, cure, mitigation,~~
5 ~~treatment, or prevention of disease in man or other animals;~~

6 ~~(c) Substances (other than food) intended to affect the structure~~
7 ~~or any function of the body of man or other animals; or~~

8 ~~(d) Substances intended for use as a component of any substances~~
9 ~~specified in (a), (b), or (c) of this subsection, but not including~~
10 ~~devices or their component parts or accessories.~~

11 ~~(4) "Device" means instruments, apparatus, and contrivances,~~
12 ~~including their components, parts, and accessories, intended (a) for~~
13 ~~use in the diagnosis, cure, mitigation, treatment, or prevention of~~
14 ~~disease in man or other animals, or (b) to affect the structure or any~~
15 ~~function of the body of man or other animals.~~

16 ~~(5) "Nonlegend" or "nonprescription" drugs means any drugs which~~
17 ~~may be lawfully sold without a prescription.~~

18 ~~(6) "Legend drugs" means any drugs which are required by any~~
19 ~~applicable federal or state law or regulation to be dispensed on~~
20 ~~prescription only or are restricted to use by practitioners only.~~

21 ~~(7) "Controlled substance" means a drug or substance, or an~~
22 ~~immediate precursor of such drug or substance, so designated under or~~
23 ~~pursuant to the provisions of chapter 69.50 RCW.~~

24 ~~(8) "Prescription" means an order for drugs or devices issued by a~~
25 ~~practitioner duly authorized by law or rule in the state of Washington~~
26 ~~to prescribe drugs or devices in the course of his or her professional~~
27 ~~practice for a legitimate medical purpose.~~

28 ~~(9) "Practitioner" means a physician, dentist, veterinarian, nurse,~~
29 ~~or other person duly authorized by law or rule in the state of~~
30 ~~Washington to prescribe drugs.~~

1 ~~(10) "Pharmacist" means a person duly licensed by the Washington~~
2 ~~state board of pharmacy to engage in the practice of pharmacy.~~

3 ~~(11) "Practice of pharmacy" includes the practice of and~~
4 ~~responsibility for: Interpreting prescription orders; the compounding,~~
5 ~~dispensing, labeling, administering, and distributing of drugs and~~
6 ~~devices; the monitoring of drug therapy and use; the initiating or~~
7 ~~modifying of drug therapy in accordance with written guidelines or~~
8 ~~protocols previously established and approved for his or her practice~~
9 ~~by a practitioner authorized to prescribe drugs; the participating in~~
10 ~~drug utilization reviews and drug product selection; the proper and~~
11 ~~safe storing and distributing of drugs and devices and maintenance of~~
12 ~~proper records thereof; the providing of information on legend drugs~~
13 ~~which may include, but is not limited to, the advising of therapeutic~~
14 ~~values, hazards, and the uses of drugs and devices.~~

15 ~~(12) "Pharmacy" means every place properly licensed by the board of~~
16 ~~pharmacy where the practice of pharmacy is conducted.~~

17 ~~(13) The words "drug" and "devices" shall not include surgical or~~
18 ~~dental instruments or laboratory materials, gas and oxygen, therapy~~
19 ~~equipment, X ray apparatus or therapeutic equipment, their component~~
20 ~~parts or accessories, or equipment, instruments, apparatus, or~~
21 ~~contrivances used to render such articles effective in medical,~~
22 ~~surgical, or dental treatment, or for use or consumption in or for~~
23 ~~mechanical, industrial, manufacturing, or scientific applications or~~
24 ~~purposes, nor shall the word "drug" include any article or mixture~~
25 ~~covered by the Washington pesticide control act (chapter 15.58 RCW), as~~
26 ~~enacted or hereafter amended, nor medicated feed intended for and used~~
27 ~~exclusively as a feed for animals other than man.~~

28 ~~(14) The word "poison" shall not include any article or mixture~~
29 ~~covered by the Washington pesticide control act (chapter 15.58 RCW), as~~
30 ~~enacted or hereafter amended.~~

1 ~~(15) "Deliver" or "delivery" means the actual, constructive, or~~
2 ~~attempted transfer from one person to another of a drug or device,~~
3 ~~whether or not there is an agency relationship.~~

4 ~~(16) "Dispense" means the interpretation of a prescription or order~~
5 ~~for a drug, biological, or device and, pursuant to that prescription or~~
6 ~~order, the proper selection, measuring, compounding, labeling, or~~
7 ~~packaging necessary to prepare that prescription or order for delivery.~~

8 ~~(17) "Distribute" means the delivery of a drug or device other than~~
9 ~~by administering or dispensing.~~

10 ~~(18) "Compounding" shall be the act of combining two or more~~
11 ~~ingredients in the preparation of a prescription.~~

12 ~~(19) "Wholesaler" shall mean a corporation, individual, or other~~
13 ~~entity which buys drugs or devices for resale and distribution to~~
14 ~~corporations, individuals, or entities other than consumers.~~

15 ~~(20) "Manufacture" means the production, preparation, propagation,~~
16 ~~compounding, or processing of a drug or other substance or device or~~
17 ~~the packaging or repackaging of such substance or device, or the~~
18 ~~labeling or relabeling of the commercial container of such substance or~~
19 ~~device, but does not include the activities of a practitioner who, as~~
20 ~~an incident to his or her administration or dispensing such substance~~
21 ~~or device in the course of his or her professional practice, prepares,~~
22 ~~compounds, packages, or labels such substance or device.~~

23 ~~(21) "Manufacturer" shall mean a person, corporation, or other~~
24 ~~entity engaged in the manufacture of drugs or devices.~~

25 ~~(22) "Labeling" shall mean the process of preparing and affixing a~~
26 ~~label to any drug or device container. The label must include all~~
27 ~~information required by current federal and state law and pharmacy~~
28 ~~rules.~~

1 ~~(23) "Administer" means the direct application of a drug or device,~~
2 ~~whether by injection, inhalation, ingestion, or any other means, to the~~
3 ~~body of a patient or research subject.~~

4 ~~(24) "Master license system" means the mechanism established by~~
5 ~~chapter 19.02 RCW by which master licenses, endorsed for individual~~
6 ~~state-issued licenses, are issued and renewed utilizing a master~~
7 ~~application and a master license expiration date common to each~~
8 ~~renewable license endorsement.~~

9 ~~(25) "Department" means the department of health.~~

10 ~~(26) "Secretary" means the secretary of health or the secretary's~~
11 ~~designee.))~~

12 (1) "Administer" means the direct application of a drug or device,
13 whether by injection, inhalation, ingestion, or any other means, to the
14 body of a patient or research subject.

15 (2) "Board" means the Washington state board of pharmacy.

16 (3) "Compounding" shall be the act of combining two or more
17 ingredients in the preparation of a prescription.

18 (4) "Controlled substance" means a drug or substance, or an
19 immediate precursor of such drug or substance, so designated under or
20 pursuant to the provisions of chapter 69.50 RCW.

21 (5) "Deliver" or "delivery" means the actual, constructive, or
22 attempted transfer from one person to another of a drug or device,
23 whether or not there is an agency relationship.

24 (6) "Department" means the department of health.

25 (7) "Device" means instruments, apparatus, and contrivances,
26 including their components, parts, and accessories, intended (a) for
27 use in the diagnosis, cure, mitigation, treatment, or prevention of
28 disease in man or other animals, or (b) to affect the structure or any
29 function of the body of man or other animals.

1 (8) "Dispense" means the interpretation of a prescription or order
2 for a drug, biological, or device and, pursuant to that prescription or
3 order, the proper selection, measuring, compounding, labeling, or
4 packaging necessary to prepare that prescription or order for delivery.

5 (9) "Dispenser" means a practitioner who dispenses.

6 (10) "Distribute" means the delivery of a drug or device other than
7 by administering or dispensing.

8 (11) "Drugs" means:

9 (a) Articles recognized in the official United States
10 pharmacopoeia/national formulary or the official homeopathic
11 pharmacopoeia of the United States or any supplement to them;

12 (b) Substances intended for use in the diagnosis, cure, mitigation,
13 treatment, or prevention of pregnancy or disease in individuals or
14 animals;

15 (c) Substances (other than food) intended to affect the structure
16 or any function of the body of man or other animals; or

17 (d) Substances intended for use as a component of any substances
18 specified in (a), (b), or (c) of this subsection, but not including
19 devices or their component parts or accessories.

20 (12) "Labeling" shall mean the process of preparing and affixing a
21 label to any drug or device container. The label must include all
22 information required by current federal and state law and pharmacy
23 rules.

24 (13) "Legend drugs" means any drugs that are required by any
25 applicable federal or state law or rule to be dispensed on prescription
26 only or are restricted to use by practitioners only.

27 (14) "Manufacture" means the production, preparation, propagation,
28 compounding, or processing of a drug or other substance or device or
29 the packaging or repackaging of such substance or device, or the
30 labeling or relabeling of the commercial container of such substance or

1 device. The term does not include the preparation, compounding,
2 packaging, repackaging, labeling, or relabeling of a drug or device:

3 (a) By a practitioner as an incident to the practitioner's
4 administering or dispensing of a drug or device within the scope of a
5 practitioner's professional practice; or

6 (b) By a practitioner, or by the practitioner's authorized agent
7 under the practitioner's supervision, for the purpose of, or as an
8 incident to, research, teaching, or chemical analysis and not for sale.

9 (15) "Manufacturer" shall mean a person, corporation, or other
10 entity engaged in the manufacture of drugs or devices.

11 (16) "Master license system" means the mechanism established by
12 chapter 19.02 RCW by which master licenses, endorsed for individual
13 state-issued licenses, are issued and renewed utilizing a master
14 application and a master license expiration date common to each
15 renewable license endorsement.

16 (17) "Nonlegend" or "nonprescription" drugs means any drugs that
17 may be lawfully sold without a prescription.

18 (18) "Person" means individual, corporation, business trust,
19 estate, trust, partnership, association, joint venture, government,
20 governmental subdivision or agency, or any other legal or commercial
21 entity.

22 (19) "Pharmacist" means a person duly licensed by the Washington
23 state board of pharmacy or the board of pharmacy of the home state of
24 a Washington-licensed nonresident pharmacy to engage in the practice of
25 pharmacy.

26 (20) "Pharmacy" means every place properly licensed by the board of
27 pharmacy where the practice of pharmacy is conducted.

28 (21) "Practice of pharmacy" includes the practice of and
29 responsibility for: Interpreting prescription orders; the compounding,
30 dispensing, labeling, administering, and distributing of drugs and

1 devices; the monitoring of drug therapy and use; the initiating or
2 modifying of drug therapy in accordance with written guidelines or
3 protocols previously established and approved for his or her practice
4 by a practitioner authorized to prescribe drugs; the participating in
5 drug utilization reviews and drug product selection; the proper and
6 safe storing and distributing of drugs and devices and maintenance of
7 proper records thereof; the providing of information on legend drugs
8 which may include, but is not limited to, the advising of therapeutic
9 values, hazards, and the uses of drugs and devices.

10 (22) "Practitioner" means a person duly authorized by law or rule
11 in the state of Washington to prescribe or dispense drugs.

12 (23) "Prescription" means an order for drugs or devices issued by
13 a practitioner duly authorized by law or rule in the state of
14 Washington to prescribe drugs or devices within the scope of his or her
15 professional practice for a legitimate medical purpose.

16 (24) "Secretary" means the secretary of health or the secretary's
17 designee.

18 (25) "Wholesaler" shall mean a corporation, individual, or other
19 entity that buys drugs or devices for resale and distribution to
20 corporations, individuals, or entities other than consumers.

21 (26) The words "drug" and "devices" shall not include surgical or
22 dental instruments or laboratory materials, gas and oxygen, therapy
23 equipment, X-ray apparatus or therapeutic equipment, their component
24 parts or accessories, or equipment, instruments, apparatus, or
25 contrivances used to render such articles effective in medical,
26 surgical, or dental treatment, or for use or consumption in or for
27 mechanical, industrial, manufacturing, or scientific applications or
28 purposes, nor shall the word "drug" include any article or mixture
29 covered by the Washington pesticide control act (chapter 15.58 RCW), as
30 enacted or hereafter amended, nor medicated feed intended for and used

1 exclusively as a feed for animals other than man. Oxygen for medical
2 use by an individual is subject to board regulation.

3 (27) The word "poison" shall not include any article or mixture
4 covered by the Washington pesticide control act (chapter 15.58 RCW), as
5 enacted or hereafter amended.

6 **Sec. 2.** RCW 69.41.010 and 1989 1st ex.s. c 9 s 426 and 1989 c 36
7 s 3 are each reenacted and amended to read as follows:

8 As used in this chapter, the following terms (~~(has [have])~~) have
9 the meaning(~~([s])~~)s indicated unless the context clearly requires
10 otherwise:

11 (1) "Administer" means the direct application of a legend drug
12 whether by injection, inhalation, ingestion, or any other means, to the
13 body of a patient or research subject by:

14 (a) A practitioner; or

15 (b) The patient or research subject at the direction of the
16 practitioner.

17 (2) "Board" means the Washington state board of pharmacy.

18 (3) "Compounding" shall be the act of combining two or more
19 ingredients in the preparation of a prescription.

20 (4) "Deliver" or "delivery" means the actual, constructive, or
21 attempted transfer from one person to another of a legend drug, whether
22 or not there is an agency relationship.

23 (~~(+3)~~) (5) "Department" means the department of health.

24 (~~(+4)~~) (6) "Dispense" means the interpretation of a prescription
25 or order for a legend drug or biological and, pursuant to that
26 prescription or order, the proper selection, measuring, compounding,
27 labeling, or packaging necessary to prepare that prescription or order
28 for delivery.

29 (~~(+5)~~) (7) "Dispenser" means a practitioner who dispenses.

1 ~~((6))~~ (8) "Distribute" means to deliver other than by
2 administering or dispensing a legend drug.

3 ~~((7))~~ (9) "Distributor" means a person who distributes.

4 ~~((8))~~ (10) "Drug" means:

5 (a) Substances recognized as drugs in the official United States
6 pharmacopoeia~~((7))~~/national formulary or the official homeopathic
7 pharmacopoeia of the United States, ~~((or official national formulary,))~~
8 or any supplement to ~~((any of))~~ them;

9 (b) Substances intended for use in the diagnosis, cure, mitigation,
10 treatment, or prevention of disease in ~~((man))~~ individuals or animals;

11 (c) Substances (other than food, minerals or vitamins) intended to
12 affect the structure or any function of the body of ~~((man))~~ individuals
13 or animals; and

14 (d) Substances intended for use as a component of any article
15 specified in clause (a), (b), or (c) of this subsection. It does not
16 include devices or their components, parts, or accessories.

17 ~~((9))~~ (11) "Legend drugs" means any drugs ~~((which))~~ or
18 biologicals that are required by state law or ~~((regulation))~~ rule of
19 the state board of pharmacy to be dispensed on prescription only or are
20 restricted to use by practitioners only.

21 ~~((10))~~ (12) "Manufacture" means the production, preparation,
22 propagation, compounding, or processing of a drug or other substance or
23 device or the packaging or repackaging of such substance or device, or
24 the labeling or relabeling of the commercial container of such
25 substance or device. The term does not include the preparation,
26 compounding, packaging, repackaging, labeling, or relabeling of a drug
27 or device:

28 (a) By a practitioner as an incident to the practitioner's
29 administering or dispensing of a drug or device within the scope of a
30 practitioner's professional practice; or

1 (b) By a practitioner, or by the practitioner's authorized agent
2 under the practitioner's supervision, for the purpose of, or as an
3 incident to, research, teaching, or chemical analysis and not for sale.

4 (13) "Manufacturer" shall mean a person, corporation, or other
5 entity engaged in the manufacture of drugs or devices.

6 (14) "Person" means individual, corporation, (~~government or~~
7 ~~governmental subdivision or agency,~~) business trust, estate, trust,
8 partnership (~~or~~), association, joint venture, government,
9 governmental subdivision or agency, or any other legal or commercial
10 entity.

11 ~~((11))~~ (15) "Practitioner" means:

12 (a) A physician under chapter 18.71 RCW, an osteopathic physician
13 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
14 dentist under chapter 18.32 RCW, a ~~((podiatrist))~~ podiatric physician
15 and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92
16 RCW, a registered nurse under chapter 18.88 RCW, a licensed practical
17 nurse under chapter 18.78 RCW, an optometrist under chapter 18.53 RCW
18 who is certified by the optometry board under RCW 18.53.010, an
19 osteopathic physician's assistant under chapter 18.57A RCW, or a
20 physician's assistant under chapter 18.71A RCW, or a pharmacist under
21 chapter 18.64 RCW;

22 (b) A pharmacy, hospital, or other institution licensed,
23 registered, or otherwise permitted to distribute, dispense, conduct
24 research with respect to, or to administer a legend drug in the course
25 of professional practice or research in this state; and

26 (c) A physician licensed to practice medicine and surgery or a
27 physician licensed to practice osteopathy and surgery (~~(in any state,~~
28 ~~or province of Canada, which shares a common border with the state of~~
29 ~~Washington)), a dentist licensed to practice dentistry, or a
30 veterinarian licensed to practice veterinary medicine or surgery in any~~

1 province of Canada that shares a common border with the state of
2 Washington or in any state of the United States.

3 ~~((12) "Secretary" means the secretary of health or the secretary's~~
4 ~~designee))~~

5 (16) "Prescription" means an order for drugs or devices issued by
6 a practitioner duly authorized by law or rule in the state of
7 Washington to prescribe drugs or devices in the course of his or her
8 professional practice for a legitimate medical purpose.

9 (17) "Wholesaler" shall mean a corporation, individual, or other
10 entity, that buys legend drugs or devices for resale and distribution,
11 to corporations, individuals, or entities other than consumers.

12 **Sec. 3.** RCW 69.50.101 and 1990 c 248 s 1, 1990 c 219 s 3, and 1990
13 c 196 s 8 are each reenacted and amended to read as follows:

14 DEFINITIONS. ~~((As))~~ Unless the context clearly requires otherwise,
15 definitions of terms shall be as indicated when used in this chapter:

16 (a) "Administer" ~~((means the direct application of a controlled~~
17 ~~substance, whether by injection, inhalation, ingestion, or any other~~
18 ~~means, to the body of a patient or research subject by:~~

19 ~~(1) a practitioner, or))~~ means to apply a controlled substance,
20 whether by injection, inhalation, ingestion, or any other means,
21 directly to the body of a patient or research subject by:

22 (1) a practitioner (or, by the practitioner's authorized agent); or

23 (2) the patient or research subject at the direction and in the
24 presence of the practitioner.

25 (b) "Agent" means an authorized person who acts on behalf of or at
26 the direction of a manufacturer, distributor, or dispenser. It does
27 not include a common or contract carrier, public ~~((warehouseman))~~
28 warehouseperson, or employee of the carrier or ~~((warehouseman))~~
29 warehouseperson.

1 (c) "Board" means the state board of pharmacy.

2 (d) "Controlled substance" means a drug, substance, or immediate
3 precursor included in Schedules I through V as set forth in federal or
4 state laws, or federal or board regulations.

5 (e)(1) "Controlled substance analog" means a substance the chemical
6 structure of which is substantially similar to the chemical structure
7 of a controlled substance in Schedule I or II and:

8 (i) that has a stimulant, depressant, or hallucinogenic effect on
9 the central nervous system substantially similar to the stimulant,
10 depressant, or hallucinogenic effect on the central nervous system of
11 a controlled substance included in Schedule I or II; or

12 (ii) with respect to a particular individual, that the individual
13 represents or intends to have a stimulant, depressant, or
14 hallucinogenic effect on the central nervous system substantially
15 similar to the stimulant, depressant, or hallucinogenic effect on the
16 central nervous system of a controlled substance included in Schedule
17 I or II.

18 (2) The term does not include:

19 (i) a controlled substance;

20 (ii) a substance for which there is an approved new drug
21 application;

22 (iii) a substance with respect to which an exemption is in effect
23 for investigational use by a particular person under Section 505 of the
24 federal Food, Drug and Cosmetic Act 21 U.S.C. Sec. 355 to the extent
25 conduct with respect to the substance is pursuant to the exemption; or

26 (iv) any substance to the extent not intended for human consumption
27 before an exemption takes effect with respect to the substance.

28 (f) "Deliver" or "delivery," means the actual or constructive
29 transfer from one person to another of a substance, whether or not
30 there is an agency relationship.

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

2 (h) "Dispense" means the interpretation of a prescription or order
3 for a controlled substance and, pursuant to that prescription or order,
4 the proper selection, measuring, compounding, labeling, or packaging
5 necessary to prepare that prescription or order for delivery.

6 (i) "Dispenser" means a practitioner who dispenses.

7 (j) "Distribute" means to deliver other than by administering or
8 dispensing a controlled substance.

9 (k) "Distributor" means a person who distributes.

10 (l) "Drug" means (1) a controlled substance recognized as a drug in
11 the official United States pharmacopoeia/national formulary or the
12 official homeopathic pharmacopoeia of the United States, or any
13 supplement to them; (2) substances intended for use in the diagnosis,
14 cure, mitigation, treatment, or prevention of disease in individuals or
15 animals; (3) substances (other than food) intended to affect the
16 structure or any function of the body of individuals or animals; and
17 (4) substances intended for use as a component of any article specified
18 in (1), (2), or (3) of this subsection. The term does not include
19 devices or their components, parts, or accessories.

20 (m) "Drug enforcement administration" means the ((federal)) drug
21 enforcement administration in the United States Department of Justice,
22 or its successor agency.

23 ~~((d) "Controlled substance" means a drug, substance, or immediate~~
24 ~~precursor in Schedules I through V of Article II.~~

25 ~~(e) "Counterfeit substance" means a controlled substance which, or~~
26 ~~the container or labeling of which, without authorization, bears the~~
27 ~~trademark, trade name, or other identifying mark, imprint, number or~~
28 ~~device, or any likeness thereof, of a manufacturer, distributor, or~~
29 ~~dispenser other than the person who in fact manufactured, distributed,~~
30 ~~or dispensed the substance.~~

1 ~~(f) "Deliver" or "delivery" means the actual, constructive, or~~
2 ~~attempted transfer from one person to another of a controlled~~
3 ~~substance, whether or not there is an agency relationship.~~

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

5 ~~(h) "Dispense" means the interpretation of a prescription or order~~
6 ~~for a controlled substance and, pursuant to that prescription or order,~~
7 ~~the proper selection, measuring, compounding, labeling, or packaging~~
8 ~~necessary to prepare that prescription or order for delivery.~~

9 ~~(i) "Dispenser" means a practitioner who dispenses.~~

10 ~~(j) "Distribute" means to deliver other than by administering or~~
11 ~~dispensing a controlled substance.~~

12 ~~(k) "Distributor" means a person who distributes.~~

13 ~~(l) "Receipt" means to receive a controlled substance either with~~
14 ~~or without consideration.~~

15 ~~(m) "Drug" means (1) substances recognized as drugs in the official~~
16 ~~United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the~~
17 ~~United States, or Official National Formulary, or any supplement to any~~
18 ~~of them; (2) substances intended for use in the diagnosis, cure,~~
19 ~~mitigation, treatment, or prevention of disease in man or animals; (3)~~
20 ~~substances (other than food) intended to affect the structure or any~~
21 ~~function of the body of man or animals; and (4) substances intended for~~
22 ~~use as a component of any article specified in clause (1), (2), or (3)~~
23 ~~of this subsection. It does not include devices or their components,~~
24 ~~parts, or accessories.)~~

25 (n) "Immediate precursor" means a substance ((which)):

26 (1) that the state board of pharmacy has found to be and by rule
27 designates as being the principal compound commonly used, or produced
28 primarily for use, ((and which)) in the manufacture of a controlled
29 substance;

1 (2) that is an immediate chemical intermediary used or likely to be
2 used in the manufacture of a controlled substance(~~(7)~~); and

3 (3) the control of which is necessary to prevent, curtail, or limit
4 the manufacture of the controlled substance.

5 (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5),
6 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any
7 geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c)
8 the term includes any positional isomer; and in RCW 69.50.204(a)(35),
9 69.50.204(c), and 69.50.208(a) the term includes any positional or
10 geometric isomer.

11 (~~(e)~~) (p) "Manufacture" means the production, preparation,
12 propagation, compounding, conversion, or processing of a controlled
13 substance, either directly or indirectly or by extraction from
14 substances of natural origin, or independently by means of chemical
15 synthesis, or by a combination of extraction and chemical synthesis,
16 and includes any packaging or repackaging of the substance or labeling
17 or relabeling of its container(~~(7 except that this)~~). The term does
18 not include the preparation (~~(e)~~), compounding, packaging,
19 repackaging, labeling, or relabeling of a controlled substance (~~by an~~
20 individual for his or her own use or the preparation, compounding,
21 packaging, or labeling of a controlled substance):

22 (1) by a practitioner as an incident to the practitioner's
23 administering or dispensing of a controlled substance in the course of
24 (~~his or her~~) the practitioner's professional practice(~~(7)~~); or

25 (2) by a practitioner, or by (~~an~~) the practitioner's authorized
26 agent under the practitioner's supervision, for the purpose of, or as
27 an incident to, research, teaching, or chemical analysis and not for
28 sale.

29 (~~(p)~~) (q) "Marijuana" (~~(or "marihuana")~~) means all parts of the
30 plant (~~(of the genus)~~) Cannabis (~~(L.)~~), whether growing or not; the

1 seeds thereof; the resin extracted from any part of the plant; and
2 every compound, manufacture, salt, derivative, mixture, or preparation
3 of the plant, its seeds or resin. ~~((It))~~ The term does not include the
4 mature stalks of the plant, fiber produced from the stalks, oil or cake
5 made from the seeds of the plant, any other compound, manufacture,
6 salt, derivative, mixture, or preparation of the mature stalks (except
7 the resin extracted therefrom), fiber, oil, or cake, or the sterilized
8 seed of the plant which is incapable of germination.

9 ~~((q))~~ (r) "Narcotic drug" means any of the following, whether
10 produced directly or indirectly by extraction from substances of
11 vegetable origin, or independently by means of chemical synthesis, or
12 by a combination of extraction and chemical synthesis:

13 ~~((1) Opium and opiate, and any salt, compound, derivative, or
14 preparation of opium or opiate.~~

15 ~~(2) Any salt, compound, isomer, derivative, or preparation thereof
16 which is chemically equivalent or identical with any of the substances
17 referred to in clause 1, but not including the isoquinoline alkaloids
18 of opium.~~

19 ~~(3) Opium poppy and poppy straw.~~

20 ~~(4) Coca leaves and any salt, compound, derivative, or preparation
21 of coca leaves, and any salt, compound, isomer, derivative, or
22 preparation thereof which is chemically equivalent or identical with
23 any of these substances, but not including decocainized coca leaves or
24 extractions of coca leaves which do not contain cocaine or ecgonine.)~~

25 (1) Opium, opium derivative, and any derivative of opium or opium
26 derivative, including their salts, isomers, and salts of isomers,
27 whenever the existence of the salts, isomers, and salts of isomers is
28 possible within the specific chemical designation. The term does not
29 include the isoquinoline alkaloids of opium.

1 (2) Synthetic opiate and any derivative of synthetic opiate,
2 including their isomers, esters, ethers, salts, and salts of isomers,
3 esters, and ethers, whenever the existence of the isomers, esters,
4 ethers, and salts is possible within the specific chemical designation.

5 (3) Poppy straw and concentrate of poppy straw.

6 (4) Coca leaves, except coca leaves and extracts of coca leaves
7 from which cocaine, ecgonine, and derivatives or ecgonine or their
8 salts have been removed.

9 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.

10 (6) Cocaine base.

11 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
12 thereof.

13 (8) Any compound, mixture, or preparation containing any quantity
14 of any substance referred to in subparagraphs (1) through (7).

15 ~~((r))~~ (s) "Opiate" means any substance having an addiction-
16 forming or addiction-sustaining liability similar to morphine or being
17 capable of conversion into a drug having addiction-forming or
18 addiction-sustaining liability. ~~((t))~~ The term includes opium,
19 substances derived from opium (opium derivatives), and synthetic
20 opiates. The term does not include, unless specifically designated as
21 controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-
22 n-methylmorphinan and its salts (dextromethorphan). ~~((t does))~~ The
23 term includes ~~((its))~~ the racemic and levorotatory forms of
24 dextromethorphan.

25 ~~((s))~~ (t) "Opium poppy" means the plant of the ~~((genus))~~ species
26 Papaver somniferum L., except its seeds~~((, capable of producing an~~
27 opiate)).

28 ~~((t))~~ (u) "Person" means individual, corporation, ~~((government or~~
29 governmental subdivision or agency,) business trust, estate, trust,
30 partnership ~~((or))~~, association, joint venture, government,

1 governmental subdivision or agency, or any other legal or commercial
2 entity.

3 ~~((u))~~ (v) "Poppy straw" means all parts, except the seeds, of the
4 opium poppy, after mowing.

5 ~~((v))~~ (w) "Practitioner" means:

6 (1) A physician under chapter 18.71 RCW, a physician assistant
7 under chapter 18.71A RCW, an osteopathic physician or an osteopathic
8 physician and surgeon under chapter 18.57 RCW, a dentist under chapter
9 18.32 RCW, a chiroprapist under chapter 18.22 RCW, a veterinarian under
10 chapter 18.92 RCW, a registered nurse under chapter 18.88 RCW, a
11 licensed practical nurse under chapter 18.78 RCW, a pharmacist under
12 chapter 18.64 RCW or a scientific investigator under this chapter,
13 licensed, registered or otherwise permitted insofar as is consistent
14 with those licensing laws to distribute, dispense, conduct research
15 with respect to or administer a controlled substance in the course of
16 their professional practice or research in this state.

17 (2) A pharmacy, hospital or other institution licensed, registered,
18 or otherwise permitted to distribute, dispense, conduct research with
19 respect to or to administer a controlled substance in the course of
20 professional practice or research in this state.

21 (3) A physician licensed to practice medicine and surgery, a
22 physician licensed to practice osteopathy and surgery, a dentist
23 licensed to practice dentistry, a ~~((pediatrist))~~ podiatric physician
24 and surgeon licensed to practice ~~((pediatry))~~ podiatric medicine and
25 surgery, or a veterinarian licensed to practice veterinary medicine in
26 any state of the United States.

27 ~~((w))~~ (x) Prescription" means an order for controlled substances
28 issued by a practitioner duly authorized by law or rule in the state of
29 Washington to prescribe controlled substances within the scope of his
30 or her professional practice for a legitimate medical purpose.

1 (y) "Production" includes the (~~(manufacture)~~) manufacturing,
2 planting, (~~(cultivation)~~) cultivating, growing, or harvesting of a
3 controlled substance.

4 (~~(x)~~) (z) "Secretary" means the secretary of health or the
5 secretary's designee.

6 (~~(y)~~) "~~State~~", ~~when applied to a part of the United States,~~
7 ~~includes any state, district, commonwealth, territory, insular~~
8 ~~possession thereof, and any area subject to the legal authority of the~~
9 ~~United States of America.~~

10 (z)) (aa) "State," unless the context otherwise requires, means a
11 state of the United States, the District of Columbia, the Commonwealth
12 of Puerto Rico, or a territory or insular possession subject to the
13 jurisdiction of the United States.

14 (bb) "Ultimate user" means (~~(a person)~~) an individual who lawfully
15 possesses a controlled substance for (~~(his or her)~~) the individual's
16 own use or for the use of a member of (~~(his or her)~~) the individual's
17 household or for administering to an animal owned by (~~(him or her)~~) the
18 individual or by a member of (~~(his or her)~~) the individual's household.

19 (~~(aa) "Board" means the state board of pharmacy.~~)

20 **Sec. 4.** RCW 18.130.040 and 1990 c 3 s 810 are each amended to read
21 as follows:

22 (1) This chapter applies only to the secretary and the boards
23 having jurisdiction in relation to the professions licensed under the
24 chapters specified in this section. This chapter does not apply to any
25 business or profession not licensed under the chapters specified in
26 this section.

27 (2)(a) The secretary has authority under this chapter in relation
28 to the following professions:

29 (i) Dispensing opticians licensed under chapter 18.34 RCW;

1 (ii) Naturopaths licensed under chapter 18.36A RCW;
2 (iii) Midwives licensed under chapter 18.50 RCW;
3 (iv) Ocularists licensed under chapter 18.55 RCW;
4 (v) Massage operators and businesses licensed under chapter 18.108
5 RCW;
6 (vi) Dental hygienists licensed under chapter 18.29 RCW;
7 (vii) Acupuncturists certified under chapter 18.06 RCW;
8 (viii) Radiologic technologists certified under chapter 18.84 RCW;
9 (ix) Respiratory care practitioners certified under chapter 18.89
10 RCW;
11 (x) Persons registered or certified under chapter 18.19 RCW;
12 (xi) Persons registered as nursing pool operators;
13 (xii) Nursing assistants registered or certified under chapter
14 ((~~18.52B~~)) 18.88A RCW;
15 (xiii) Dietitians and nutritionists certified under chapter 18.138
16 RCW; and
17 (xiv) Sex offender treatment providers certified under chapter
18 18.155 RCW.
19 (b) The boards having authority under this chapter are as follows:
20 (i) The ((~~podiatry~~)) podiatric medical board as established in
21 chapter 18.22 RCW;
22 (ii) The chiropractic disciplinary board as established in chapter
23 18.26 RCW governing licenses issued under chapter 18.25 RCW;
24 (iii) The dental disciplinary board as established in chapter 18.32
25 RCW;
26 (iv) The council on hearing aids as established in chapter 18.35
27 RCW;
28 (v) The board of funeral directors and embalmers as established in
29 chapter 18.39 RCW;

1 (vi) The board of examiners for nursing home administrators as
2 established in chapter 18.52 RCW;

3 (vii) The optometry board as established in chapter 18.54 RCW
4 governing licenses issued under chapter 18.53 RCW;

5 (viii) The board of osteopathic medicine and surgery as established
6 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
7 18.57A RCW;

8 (ix) The board of pharmacy as established in chapter 18.64 RCW
9 governing licenses issued under chapters 18.64 and 18.64A RCW;

10 (x) The medical disciplinary board as established in chapter 18.72
11 RCW governing licenses and registrations issued under chapters 18.71
12 and 18.71A RCW;

13 (~~(xi)~~) (xi) The board of physical therapy as established in
14 chapter 18.74 RCW;

15 (~~(xii)~~) (xii) The board of occupational therapy practice as
16 established in chapter 18.59 RCW;

17 (~~(xiii)~~) (xiii) The board of practical nursing as established in
18 chapter 18.78 RCW;

19 (~~(xiv)~~) (xiv) The examining board of psychology and its
20 disciplinary committee as established in chapter 18.83 RCW;

21 (~~(xv)~~) (xv) The board of nursing as established in chapter 18.88
22 RCW; and

23 (~~(xvi)~~) (xvi) The veterinary board of governors as established in
24 chapter 18.92 RCW.

25 (3) In addition to the authority to discipline license holders, the
26 disciplining authority has the authority to grant or deny licenses
27 based on the conditions and criteria established in this chapter and
28 the chapters specified in subsection (2) of this section. However, the
29 board of chiropractic examiners has authority over issuance and denial
30 of licenses provided for in chapter 18.25 RCW, the board of dental

1 examiners has authority over issuance and denial of licenses provided
2 for in RCW 18.32.040, and the board of medical examiners has authority
3 over issuance and denial of licenses and registrations provided for in
4 chapters 18.71 and 18.71A RCW. This chapter also governs any
5 investigation, hearing, or proceeding relating to denial of licensure
6 or issuance of a license conditioned on the applicant's compliance with
7 an order entered pursuant to RCW 18.130.160 by the disciplining
8 authority.

9 **Sec. 5.** RCW 18.130.175 and 1991 c 3 s 270 are each amended to read
10 as follows:

11 (1) In lieu of disciplinary action under RCW 18.130.160 and if the
12 disciplining authority determines that the unprofessional conduct may
13 be the result of substance abuse, the disciplining authority may refer
14 the license holder to a voluntary substance abuse monitoring program
15 approved by the disciplining authority.

16 The cost of the treatment shall be the responsibility of the
17 license holder, but the responsibility does not preclude payment by an
18 employer, existing insurance coverage, or other sources. Primary
19 alcoholism or drug treatment shall be provided by approved treatment
20 facilities under RCW 70.96A.020(~~((2))~~): PROVIDED, That nothing shall
21 prohibit the disciplining authority from approving additional services
22 and programs as an adjunct to primary alcoholism or drug treatment.
23 The disciplining authority may also approve the use of out-of-state
24 programs. Referral of the license holder to the program shall be done
25 only with the consent of the license holder. Referral to the program
26 may also include probationary conditions for a designated period of
27 time. If the license holder does not consent to be referred to the
28 program or does not successfully complete the program, the disciplining
29 authority may take appropriate action under RCW 18.130.160.

1 (2) In addition to approving substance abuse monitoring programs
2 that may receive referrals from the disciplining authority, the
3 disciplining authority may establish by rule requirements for
4 participation of license holders who are not being investigated or
5 monitored by the disciplining authority for substance abuse. License
6 holders voluntarily participating in the approved programs without
7 being referred by the disciplining authority shall not be subject to
8 disciplinary action under RCW 18.130.160 for their substance abuse, and
9 shall not have their participation made known to the disciplining
10 authority, if they meet the requirements of this section and the
11 program in which they are participating.

12 (3) The license holder shall sign a waiver allowing the program to
13 release information to the disciplining authority if the licensee does
14 not comply with the requirements of this section or is unable to
15 practice with reasonable skill or safety. The substance abuse program
16 shall report to the disciplining authority any license holder who fails
17 to comply with the requirements of this section or the program or who,
18 in the opinion of the program, is unable to practice with reasonable
19 skill or safety. License holders shall report to the disciplining
20 authority if they fail to comply with this section or do not complete
21 the program's requirements. License holders may, upon the agreement of
22 the program and disciplining authority, reenter the program if they
23 have previously failed to comply with this section.

24 (4) The treatment and pretreatment records of license holders
25 referred to or voluntarily participating in approved programs shall be
26 confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and
27 shall not be subject to discovery by subpoena or admissible as evidence
28 except for monitoring records reported to the disciplining authority
29 for cause as defined in subsection (3) of this section. Monitoring
30 records relating to license holders referred to the program by the

1 disciplining authority or relating to license holders reported to the
2 disciplining authority by the program for cause, shall be released to
3 the disciplining authority at the request of the disciplining
4 authority. Records held by the disciplining authority under this
5 section shall be exempt from RCW 42.17.250 through 42.17.450 and shall
6 not be subject to discovery by subpoena except by the license holder.

7 (5) "Substance abuse," as used in this section, means the
8 impairment, as determined by the disciplining authority, of a license
9 holder's professional services by an addiction to, a dependency on, or
10 the use of alcohol, legend drugs, or controlled substances.

11 (6) This section does not affect an employer's right or ability to
12 make employment-related decisions regarding a license holder. This
13 section does not restrict the authority of the disciplining authority
14 to take disciplinary action for any other unprofessional conduct.

15 (7) A person who, in good faith, reports information or takes
16 action in connection with this section is immune from civil liability
17 for reporting information or taking the action.

18 (a) The immunity from civil liability provided by this section
19 shall be liberally construed to accomplish the purposes of this section
20 and the persons entitled to immunity shall include:

- 21 (i) An approved monitoring treatment program;
- 22 (ii) The professional association operating the program;
- 23 (iii) Members, employees, or agents of the program or association;
- 24 (iv) Persons reporting a license holder as being impaired or
25 providing information about the license holder's impairment; and
- 26 (v) Professionals supervising or monitoring the course of the
27 impaired license holder's treatment or rehabilitation.

28 (b) The immunity provided in this section is in addition to any
29 other immunity provided by law.

1 (~~(8) In addition to health care professionals governed by this~~
2 ~~chapter, this section also applies to pharmacists under chapter 18.64~~
3 ~~RCW and pharmacy assistants under chapter 18.64A RCW. For that~~
4 ~~purpose, the board of pharmacy shall be deemed to be the disciplining~~
5 ~~authority and the substance abuse monitoring program shall be in lieu~~
6 ~~of disciplinary action under RCW 18.64.160 or 18.64A.050. The board of~~
7 ~~pharmacy shall adjust license fees to offset the costs of this~~
8 ~~program.))~~)

9 **Sec. 6.** RCW 18.64.160 and 1985 c 7 s 60 are each amended to read
10 as follows:

11 In addition to the grounds under RCW 18.130.170 and 18.130.180, the
12 board of pharmacy (~~shall have the power to refuse, suspend, or~~
13 ~~revoke~~) may take disciplinary action against the license of any
14 pharmacist or intern upon proof that:

15 (1) His or her license was procured through fraud,
16 misrepresentation, or deceit;

17 (2) (~~He or she has been convicted of a felony relating to his or~~
18 ~~her practice as a pharmacist;~~

19 (3) ~~He or she has committed any act involving moral turpitude,~~
20 ~~dishonesty, or corruption, if the act committed directly relates to the~~
21 ~~pharmacist's fitness to practice pharmacy. Upon such conviction,~~
22 ~~however, the judgment and sentence shall be conclusive evidence at the~~
23 ~~ensuing disciplinary hearing of the guilt of the respondent pharmacist~~
24 ~~of the crime described in the indictment or information, and of his or~~
25 ~~her violation of the statute upon which it is based;~~

26 (4) ~~He or she is unfit to practice pharmacy because of habitual~~
27 ~~intemperance in the use of alcoholic beverages, drugs, controlled~~
28 ~~substances, or any other substance which impairs the performance of~~
29 ~~professional duties;~~

1 ~~(5) He or she exhibits behavior which may be due to physical or~~
2 ~~mental impairment, which creates an undue risk of causing harm to him~~
3 ~~or herself or to other persons when acting as a licensed pharmacist or~~
4 ~~intern;~~

5 ~~(6) He or she has incompetently or negligently practiced pharmacy,~~
6 ~~creating an unreasonable risk of harm to any individual;~~

7 ~~(7) His or her legal authority to practice pharmacy, issued by any~~
8 ~~other properly constituted licensing authority of any other state, has~~
9 ~~been and is currently suspended or revoked;~~

10 ~~(8))~~ In the event that a pharmacist is determined by a court of
11 competent jurisdiction to be mentally incompetent, the pharmacist shall
12 automatically have his or her license suspended by the board upon the
13 entry of the judgment, regardless of the pendency of an appeal;

14 ~~((9))~~ (3) He or she has knowingly violated or permitted the
15 violation of any provision of any state or federal law, rule, or
16 regulation governing the possession, use, distribution, or dispensing
17 of drugs, including, but not limited to, the violation of any provision
18 of this chapter, Title 69 RCW, or rule or regulation of the board;

19 ~~((10))~~ (4) He or she has knowingly allowed any unlicensed person
20 to take charge of a pharmacy or engage in the practice of pharmacy,
21 except a pharmacy intern or pharmacy assistant acting as authorized in
22 this chapter or chapter 18.64A RCW in the presence of and under the
23 immediate supervision of a licensed pharmacist;

24 ~~((11))~~ (15) He or she has compounded, dispensed, or caused the
25 compounding or dispensing of any drug or device which contains more or
26 less than the equivalent quantity of ingredient or ingredients
27 specified by the person who prescribed such drug or device: PROVIDED,
28 HOWEVER, That nothing herein shall be construed to prevent the
29 pharmacist from exercising professional judgment in the preparation or
30 providing of such drugs or devices.

1 (~~In any case of the refusal, suspension, or revocation of a~~
2 ~~license by said board of pharmacy under the provisions of this chapter,~~
3 ~~said board shall proceed in accordance with chapter 34.05 RCW.))~~)

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.64 RCW
5 to read as follows:

6 The uniform disciplinary act, chapter 18.130 RCW, governs
7 unlicensed practice, the issuance and denial of licenses, and the
8 discipline of licensees under this chapter.

9 **Sec. 8.** RCW 18.64A.050 and 1989 1st ex.s. c 9 s 424 are each
10 amended to read as follows:

11 In addition to the grounds under RCW 18.130.170 and 18.130.180, the
12 board of pharmacy (~~shall have the power to refuse, suspend, or~~
13 ~~revoke~~)) may take disciplinary action against the certificate of any
14 pharmacy assistant upon proof that:

15 (1) His or her certificate was procured through fraud,
16 misrepresentation or deceit;

17 (2) He or she has been found guilty of any offense in violation of
18 the laws of this state relating to drugs, poisons, cosmetics or drug
19 sundries by any court of competent jurisdiction. Nothing herein shall
20 be construed to affect or alter the provisions of RCW 9.96A.020;

21 (3) (~~He or she is unfit to perform his or her duties because of~~
22 ~~habitual intoxication or abuse of controlled substances;~~

23 ~~(4))~~ He or she has exhibited gross incompetency in the performance
24 of his or her duties;

25 (~~(5))~~) (4) He or she has willfully or repeatedly violated any of
26 the rules and regulations of the board of pharmacy or of the
27 department;

1 ~~((6))~~ (5) He or she has willfully or repeatedly performed duties
2 beyond the scope of his or her certificate in violation of the
3 provisions of this chapter; or

4 ~~((7))~~ (6) He or she has impersonated a licensed pharmacist.

5 ~~((In any case of the refusal, suspension or revocation of a
6 certificate by the board, a hearing shall be conducted in accordance
7 with RCW 18.64.160, as now or hereafter amended, and appeal may be
8 taken in accordance with the Administrative Procedure Act, chapter
9 34.05 RCW.))~~

10 NEW SECTION. **Sec. 9.** A new section is added to chapter 18.64A RCW
11 to read as follows:

12 The uniform disciplinary act, chapter 18.130 RCW, governs the
13 issuance and denial of certificates and the discipline of certificants
14 under this chapter.

15 NEW SECTION. **Sec. 10.** RCW 18.64.260 and 1987 c 202 s 184, 1969
16 ex.s. c 199 s 17, 1909 c 213 s 9, & 1899 c 121 s 17 are each repealed.