

2 SSB 6192 - H COMM AMD  
3 By Committee on Health Care

4

5 Strike everything after the enacting clause and insert the  
6 following:

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.~~

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

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

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

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

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

25 ~~(4) "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~~

1 disease in man or other animals, or (b) to affect the structure or any  
2 function of the body of man or other animals.

3 (5) "Nonlegend" or "nonprescription" drugs means any drugs which  
4 may be lawfully sold without a prescription.

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

8 (7) "Controlled substance" means a drug or substance, or an  
9 immediate precursor of such drug or substance, so designated under or  
10 pursuant to the provisions of chapter 69.50 RCW.

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

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

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

20 (11) "Practice of pharmacy" includes the practice of and  
21 responsibility for: Interpreting prescription orders; the compounding,  
22 dispensing, labeling, administering, and distributing of drugs and  
23 devices; the monitoring of drug therapy and use; the initiating or  
24 modifying of drug therapy in accordance with written guidelines or  
25 protocols previously established and approved for his or her practice  
26 by a practitioner authorized to prescribe drugs; the participating in  
27 drug utilization reviews and drug product selection; the proper and  
28 safe storing and distributing of drugs and devices and maintenance of  
29 proper records thereof; the providing of information on legend drugs

1 which may include, but is not limited to, the advising of therapeutic  
2 values, hazards, and the uses of drugs and devices.

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

5 (13) The words "drug" and "devices" shall not include surgical or  
6 dental instruments or laboratory materials, gas and oxygen, therapy  
7 equipment, X-ray apparatus or therapeutic equipment, their component  
8 parts or accessories, or equipment, instruments, apparatus, or  
9 contrivances used to render such articles effective in medical,  
10 surgical, or dental treatment, or for use or consumption in or for  
11 mechanical, industrial, manufacturing, or scientific applications or  
12 purposes, nor shall the word "drug" include any article or mixture  
13 covered by the Washington pesticide control act (chapter 15.58 RCW), as  
14 enacted or hereafter amended, nor medicated feed intended for and used  
15 exclusively as a feed for animals other than man.

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

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

22 (16) "Dispense" means the interpretation of a prescription or order  
23 for a drug, biological, or device and, pursuant to that prescription or  
24 order, the proper selection, measuring, compounding, labeling, or  
25 packaging necessary to prepare that prescription or order for delivery.

26 (17) "Distribute" means the delivery of a drug or device other than  
27 by administering or dispensing.

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

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

4       ~~(20) "Manufacture" means the production, preparation, propagation,~~  
5 ~~compounding, or processing of a drug or other substance or device or~~  
6 ~~the packaging or repackaging of such substance or device, or the~~  
7 ~~labeling or relabeling of the commercial container of such substance or~~  
8 ~~device, but does not include the activities of a practitioner who, as~~  
9 ~~an incident to his or her administration or dispensing such substance~~  
10 ~~or device in the course of his or her professional practice, prepares,~~  
11 ~~compounds, packages, or labels such substance or device.~~

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

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

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

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

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

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

1       (1) "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       (2) "Board" means the Washington state board of pharmacy.

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

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

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

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

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

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

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

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

26       (11) "Drugs" means:

27       (a) Articles recognized in the official United States  
28 pharmacopoeia/national formulary or the official homeopathic  
29 pharmacopoeia of the United States or any supplement to them;

1       (b) Substances intended for use in the diagnosis, cure, mitigation,  
2 treatment, or prevention of pregnancy or disease in individuals or  
3 animals;

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

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

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

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

16       (14) "Manufacture" means the production, preparation, compounding,  
17 or processing of a drug or other substance or device or the packaging  
18 or repackaging of such substance or device, or the labeling or  
19 relabeling of the commercial container of such substance or device.  
20 The term does not include the preparation, compounding, packaging,  
21 repackaging, labeling, or relabeling of a drug or device:

22       (a) By a practitioner as an incident to the practitioner's  
23 administering or dispensing of a drug or device within the scope of a  
24 practitioner's professional practice; or

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

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

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

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

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

12       (19) "Pharmacist" means a person duly licensed by the Washington  
13 state board of pharmacy or the board of pharmacy of the home state of  
14 a Washington-licensed nonresident pharmacy to engage in the practice of  
15 pharmacy.

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

18       (21) "Practice of pharmacy" includes the practice of and  
19 responsibility for: Interpreting prescription orders; the compounding,  
20 dispensing, labeling, administering, and distributing of drugs and  
21 devices; the monitoring of drug therapy and use; the initiating or  
22 modifying of drug therapy in accordance with written guidelines or  
23 protocols previously established and approved for his or her practice  
24 by a practitioner authorized to prescribe drugs; the participating in  
25 drug utilization reviews and drug product selection; the proper and  
26 safe storing and distributing of drugs and devices and maintenance of  
27 proper records thereof; the providing of information on legend drugs  
28 which may include, but is not limited to, the advising of therapeutic  
29 values, hazards, and the uses of drugs and devices.

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

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

7       (24) "Secretary" means the secretary of health or the secretary's  
8 designee.

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

12       (26) The words "drug" and "devices" shall not include surgical or  
13 dental instruments or laboratory materials, therapy equipment, X-ray  
14 apparatus or therapeutic equipment, their component parts or  
15 accessories, or equipment, instruments, apparatus, or contrivances used  
16 to render such articles effective in medical, surgical, or dental  
17 treatment, or materials, including gas and oxygen, for use or  
18 consumption in or for mechanical, industrial, manufacturing, or  
19 scientific applications or purposes, nor shall the word "drug" include  
20 any article or mixture covered by the Washington pesticide control act  
21 (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated  
22 feed intended for and used exclusively as a feed for animals other than  
23 people. The manufacture, packaging, distribution, and delivery of  
24 oxygen USP and/or other medicinal gases intended for treatment of, or  
25 administration to individuals or animals is subject to board of  
26 pharmacy rules and inspection.

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



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

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

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

9       (a) A practitioner; or

10       (b) The patient or research subject at the direction of the  
11 practitioner.

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

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

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

18       (~~(3)~~) (5) "Department" means the department of health.

19       (~~(4)~~) (6) "Dispense" means the interpretation of a prescription  
20 or order for a legend drug or biological and, pursuant to that  
21 prescription or order, the proper selection, measuring, compounding,  
22 labeling, or packaging necessary to prepare that prescription or order  
23 for delivery.

24       (~~(5)~~) (7) "Dispenser" means a practitioner who dispenses.

25       (~~(6)~~) (8) "Distribute" means to deliver other than by  
26 administering or dispensing a legend drug.

27       (~~(7)~~) (9) "Distributor" means a person who distributes.

28       (~~(8)~~) (10) "Drug" means:

29       (a) Substances recognized as drugs in the official United States  
30 pharmacopoeia(~~(7)~~)/national formulary or the official homeopathic

1 pharmacopoeia of the United States, (~~or official national formulary,~~)  
2 or any supplement to (~~any of~~) them;

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

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

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

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

15 (~~(10)~~) (12) "Manufacture" means the production, preparation,  
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. The term does not include the preparation, compounding,  
20 packaging, repackaging, labeling, or relabeling of a drug or device:

21 (a) By a practitioner as an incident to the practitioner's  
22 administering or dispensing of a drug or device within the scope of a  
23 practitioner's professional practice; or

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

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

29 (14) "Person" means individual, corporation, (~~government or~~  
30 governmental subdivision or agency,) business trust, estate, trust,

1 partnership ~~((or))~~, association, joint venture, government,  
2 governmental subdivision or agency, or any other legal or commercial  
3 entity.

4 ~~((11))~~ (15) "Practitioner" means:

5 (a) A physician under chapter 18.71 RCW, an osteopathic physician  
6 or an osteopathic physician and surgeon under chapter 18.57 RCW, a  
7 dentist under chapter 18.32 RCW, a ~~((podiatrist))~~ podiatric physician  
8 and surgeon under chapter 18.22 RCW, a naturopath under chapter 18.36A  
9 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under  
10 chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW,  
11 an optometrist under chapter 18.53 RCW who is certified by the  
12 optometry board under RCW 18.53.010, an osteopathic physician's  
13 assistant under chapter 18.57A RCW, or a physician's assistant under  
14 chapter 18.71A RCW, or a pharmacist under chapter 18.64 RCW;

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

19 (c) A physician licensed to practice medicine and surgery or a  
20 physician licensed to practice osteopathy and surgery ~~((in any state,~~  
21 ~~or province of Canada, which shares a common border with the state of~~  
22 ~~Washington))~~, a dentist licensed to practice dentistry or a podiatric  
23 physician and surgeon licensed to practice podiatric medicine and  
24 surgery, or a veterinarian licensed to practice veterinary medicine or  
25 surgery in any province of Canada that shares a common border with the  
26 state of Washington or in any state of the United States.

27 ~~((12) "Secretary" means the secretary of health or the secretary's~~  
28 ~~designee))~~

29 (16) "Prescription" means an order for drugs or devices issued by  
30 a practitioner duly authorized by law or rule in the state of

1 Washington to prescribe drugs or devices in the course of his or her  
2 professional practice for a legitimate medical purpose.

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

6 "Sec. 3. RCW 69.50.101 and 1990 c 248 s 1, 1990 c 219 s 3, and  
7 1990 c 196 s 8 are each reenacted and amended to read as follows:

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

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

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

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

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

19 (b) "Agent" means an authorized person who acts on behalf of or at  
20 the direction of a manufacturer, distributor, or dispenser. It does  
21 not include a common or contract carrier, public (~~warehouseman~~)  
22 warehouseperson, or employee of the carrier or (~~warehouseman~~)  
23 warehouseperson.

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

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

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

4       (i) that has a stimulant, depressant, or hallucinogenic effect on  
5 the central nervous system substantially similar to the stimulant,  
6 depressant, or hallucinogenic effect on the central nervous system of  
7 a controlled substance included in Schedule I or II; or

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

14       (2) The term does not include:

15       (i) a controlled substance;

16       (ii) a substance for which there is an approved new drug  
17 application;

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

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

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

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

28       (h) "Dispense" means the interpretation of a prescription or order  
29 for a controlled substance and, pursuant to that prescription or order,

1 the proper selection, measuring, compounding, labeling, or packaging  
2 necessary to prepare that prescription or order for delivery.

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

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

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

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

17 (m) "Drug enforcement administration" means the ((federal)) drug  
18 enforcement administration in the United States Department of Justice,  
19 or its successor agency.

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

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

28 (f) "Deliver" or "delivery" means the actual, constructive, or  
29 attempted transfer from one person to another of a controlled  
30 substance, whether or not 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) "Receipt" means to receive a controlled substance either with~~  
11 ~~or without consideration.~~

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

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

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

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

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

1        (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5),  
2 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any  
3 geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c)  
4 the term includes any positional isomer; and in RCW 69.50.204(a)(35),  
5 69.50.204(c), and 69.50.208(a) the term includes any positional or  
6 geometric isomer.

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

18        (1) by a practitioner as an incident to the practitioner's  
19 administering or dispensing of a controlled substance in the course of  
20 ~~((his or her))~~ the practitioner's professional practice(~~(,)~~); or

21        (2) by a practitioner, or by ~~((an))~~ the practitioner's authorized  
22 agent under the practitioner's supervision, for the purpose of, or as  
23 an incident to, research, teaching, or chemical analysis and not for  
24 sale.

25        ~~((p))~~ (q) "Marijuana" or "marihuana" means all parts of the plant  
26 ~~((of the genus))~~ Cannabis (~~(L.)~~), whether growing or not; the seeds  
27 thereof; the resin extracted from any part of the plant; and every  
28 compound, manufacture, salt, derivative, mixture, or preparation of the  
29 plant, its seeds or resin. ~~((It))~~ The term does not include the mature  
30 stalks of the plant, fiber produced from the stalks, oil or cake made



1 from the seeds of the plant, any other compound, manufacture, salt,  
2 derivative, mixture, or preparation of the mature stalks (except the  
3 resin extracted therefrom), fiber, oil, or cake, or the sterilized seed  
4 of the plant which is incapable of germination.

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

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

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

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

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

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

26 (2) Synthetic opiate and any derivative of synthetic opiate,  
27 including their isomers, esters, ethers, salts, and salts of isomers,  
28 esters, and ethers, whenever the existence of the isomers, esters,  
29 ethers, and salts is possible within the specific chemical designation.

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

1        (4) Coca leaves, except coca leaves and extracts of coca leaves  
2 from which cocaine, ecgonine, and derivatives or ecgonine or their  
3 salts have been removed.

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

5        (6) Cocaine base.

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

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

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

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

23        ~~((t))~~ (u) "Person" means individual, corporation, ~~((government or~~  
24 ~~governmental subdivision or agency,))~~ business trust, estate, trust,  
25 partnership ~~((or)),~~ association, joint venture, government,  
26 governmental subdivision or agency, or any other legal or commercial  
27 entity.

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

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

1 (1) A physician under chapter 18.71 RCW, a physician assistant  
2 under chapter 18.71A RCW, an osteopathic physician or an osteopathic  
3 physician and surgeon under chapter 18.57 RCW, a dentist under chapter  
4 18.32 RCW, a (~~chiropractist~~) podiatric physician and surgeon under  
5 chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered  
6 nurse under chapter 18.88 RCW, a licensed practical nurse under chapter  
7 18.78 RCW, a pharmacist under chapter 18.64 RCW or a scientific  
8 investigator under this chapter, licensed, registered or otherwise  
9 permitted insofar as is consistent with those licensing laws to  
10 distribute, dispense, conduct research with respect to or administer a  
11 controlled substance in the course of their professional practice or  
12 research in this state.

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

17 (3) A physician licensed to practice medicine and surgery, a  
18 physician licensed to practice osteopathy and surgery, a dentist  
19 licensed to practice dentistry, a (~~podiatrist~~) podiatric physician  
20 and surgeon licensed to practice (~~podiatry~~) podiatric medicine and  
21 surgery, or a veterinarian licensed to practice veterinary medicine in  
22 any state of the United States.

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

27 (y) "Production" includes the (~~manufacture~~) manufacturing,  
28 planting, (~~cultivation~~) cultivating, growing, or harvesting of a  
29 controlled substance.

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

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

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

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

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

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

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

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

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

27       (ii) Naturopaths licensed under chapter 18.36A RCW;

28       (iii) Midwives licensed under chapter 18.50 RCW;

29       (iv) Ocularists licensed under chapter 18.55 RCW;

1 (v) Massage operators and businesses licensed under chapter 18.108  
2 RCW;

3 (vi) Dental hygienists licensed under chapter 18.29 RCW;  
4 (vii) Acupuncturists certified under chapter 18.06 RCW;  
5 (viii) Radiologic technologists certified under chapter 18.84 RCW;  
6 (ix) Respiratory care practitioners certified under chapter 18.89  
7 RCW;

8 (x) Persons registered or certified under chapter 18.19 RCW;  
9 (xi) Persons registered as nursing pool operators;  
10 (xii) Nursing assistants registered or certified under chapter  
11 ((18.52B)) 18.88A RCW;

12 (xiii) Dietitians and nutritionists certified under chapter 18.138  
13 RCW; and

14 (xiv) Sex offender treatment providers certified under chapter  
15 18.155 RCW.

16 (b) The boards having authority under this chapter are as follows:

17 (i) The ((podiatry)) podiatric medical board as established in  
18 chapter 18.22 RCW;

19 (ii) The chiropractic disciplinary board as established in chapter  
20 18.26 RCW governing licenses issued under chapter 18.25 RCW;

21 (iii) The dental disciplinary board as established in chapter 18.32  
22 RCW;

23 (iv) The council on hearing aids as established in chapter 18.35  
24 RCW;

25 (v) The board of funeral directors and embalmers as established in  
26 chapter 18.39 RCW;

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

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

1 (viii) The board of osteopathic medicine and surgery as established  
2 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
3 18.57A RCW;

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

6 (x) The medical disciplinary board as established in chapter 18.72  
7 RCW governing licenses and registrations issued under chapters 18.71  
8 and 18.71A RCW;

9 (~~(x)~~) (xi) The board of physical therapy as established in  
10 chapter 18.74 RCW;

11 (~~(xi)~~) (xii) The board of occupational therapy practice as  
12 established in chapter 18.59 RCW;

13 (~~(xii)~~) (xiii) The board of practical nursing as established in  
14 chapter 18.78 RCW;

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

17 (~~(xiv)~~) (xv) The board of nursing as established in chapter 18.88  
18 RCW; and

19 (~~(xv)~~) (xvi) The veterinary board of governors as established in  
20 chapter 18.92 RCW.

21 (3) In addition to the authority to discipline license holders, the  
22 disciplining authority has the authority to grant or deny licenses  
23 based on the conditions and criteria established in this chapter and  
24 the chapters specified in subsection (2) of this section. However, the  
25 board of chiropractic examiners has authority over issuance and denial  
26 of licenses provided for in chapter 18.25 RCW, the board of dental  
27 examiners has authority over issuance and denial of licenses provided  
28 for in RCW 18.32.040, and the board of medical examiners has authority  
29 over issuance and denial of licenses and registrations provided for in  
30 chapters 18.71 and 18.71A RCW. This chapter also governs any

1 investigation, hearing, or proceeding relating to denial of licensure  
2 or issuance of a license conditioned on the applicant's compliance with  
3 an order entered pursuant to RCW 18.130.160 by the disciplining  
4 authority."

5 "Sec. 5. RCW 18.130.175 and 1991 c 3 s 270 are each amended to  
6 read as follows:

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

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

26 (2) In addition to approving substance abuse monitoring programs  
27 that may receive referrals from the disciplining authority, the  
28 disciplining authority may establish by rule requirements for  
29 participation of license holders who are not being investigated or

1 monitored by the disciplining authority for substance abuse. License  
2 holders voluntarily participating in the approved programs without  
3 being referred by the disciplining authority shall not be subject to  
4 disciplinary action under RCW 18.130.160 for their substance abuse, and  
5 shall not have their participation made known to the disciplining  
6 authority, if they meet the requirements of this section and the  
7 program in which they are participating.

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

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



1 section shall be exempt from RCW 42.17.250 through 42.17.450 and shall  
2 not be subject to discovery by subpoena except by the license holder.

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

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

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

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

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

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

26 ~~((8) In addition to health care professionals governed by this~~  
27 ~~chapter, this section also applies to pharmacists under chapter 18.64~~  
28 ~~RCW and pharmacy assistants under chapter 18.64A RCW. For that~~  
29 ~~purpose, the board of pharmacy shall be deemed to be the disciplining~~  
30 ~~authority and the substance abuse monitoring program shall be in lieu~~

1 of disciplinary action under RCW 18.64.160 or 18.64A.050. The board of  
2 pharmacy shall adjust license fees to offset the costs of this  
3 program.))"

4 "Sec. 6. RCW 18.64.160 and 1985 c 7 s 60 are each amended to read  
5 as follows:

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

10 (1) His or her license was procured through fraud,  
11 misrepresentation, or deceit;

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

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

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

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

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

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

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

10       ((~~9~~)) (3) He or she has knowingly violated or permitted the  
11       violation of any provision of any state or federal law, rule, or  
12       regulation governing the possession, use, distribution, or dispensing  
13       of drugs, including, but not limited to, the violation of any provision  
14       of this chapter, Title 69 RCW, or rule or regulation of the board;

15       ((~~10~~)) (4) He or she has knowingly allowed any unlicensed person  
16       to take charge of a pharmacy or engage in the practice of pharmacy,  
17       except a pharmacy intern or pharmacy assistant acting as authorized in  
18       this chapter or chapter 18.64A RCW in the presence of and under the  
19       immediate supervision of a licensed pharmacist;

20       ((~~11~~)) (15) He or she has compounded, dispensed, or caused the  
21       compounding or dispensing of any drug or device which contains more or  
22       less than the equivalent quantity of ingredient or ingredients  
23       specified by the person who prescribed such drug or device: PROVIDED,  
24       HOWEVER, That nothing herein shall be construed to prevent the  
25       pharmacist from exercising professional judgment in the preparation or  
26       providing of such drugs or devices.

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

1        "NEW SECTION. Sec. 7. A new section is added to chapter 18.64 RCW  
2 to read as follows:  
3 The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed  
4 practice, the issuance and denial of licenses, and the discipline of  
5 licensees under this chapter."

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

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

12        (1) His or her certificate was procured through fraud,  
13 misrepresentation or deceit;

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

18        (~~3~~) (~~He or she is unfit to perform his or her duties because of~~  
19 ~~habitual intoxication or abuse of controlled substances;~~

20        (~~4~~)) He or she has exhibited gross incompetency in the performance  
21 of his or her duties;

22        (~~5~~)) (4) He or she has willfully or repeatedly violated any of  
23 the rules and regulations of the board of pharmacy or of the  
24 department;

25        (~~6~~)) (5) He or she has willfully or repeatedly performed duties  
26 beyond the scope of his or her certificate in violation of the  
27 provisions of this chapter; or

28        (~~7~~)) (6) He or she has impersonated a licensed pharmacist.

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

6       "NEW SECTION.   **Sec. 9.**   A new section is added to chapter 18.64A  
7 RCW to read as follows:  
8 The uniform disciplinary act, chapter 18.130 RCW, governs the issuance  
9 and denial of certificates and the discipline of certificants under  
10 this chapter."

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

13   **SSB 6192** - H COMM AMD  
14       By Committee on Health Care

15  
16       On page 1, line 1 of the title, after "drugs;" strike the remainder  
17 of the title and insert "amending RCW 18.64.011, 18.130.040,  
18 18.130.175, 18.64.160, and 18.64A.050; reenacting and amending RCW  
19 69.41.010 and 69.50.101; adding a new section to chapter 18.64 RCW;  
20 adding a new section to chapter 18.64A RCW; and repealing RCW  
21 18.64.260."