H-0812.1

HOUSE BILL 1373

State of Washington 53rd Legislature 1993 Regular Session

By Representative Appelwick

Read first time 01/27/93. Referred to Committee on Health Care.

AN ACT Relating to controlled substances; amending RCW 69.50.201, 69.50.203, 69.50.204, 69.50.205, 69.50.206, 69.50.207, 69.50.208, 69.50.209, 69.50.210, 69.50.211, 69.50.212, 69.50.213, 69.50.301, 69.50.302, 69.50.303, 69.50.304, 69.50.306, 69.50.307, 69.50.308, 69.50.403, 18.64.011, 18.130.040, 18.130.175, 18.64.160, and 18.64A.050; reenacting and amending RCW 69.50.101 and 69.41.010; adding new sections to chapter 69.50 RCW; adding a new section to chapter 18.64 RCW; adding a new section to chapter 18.64A RCW; creating new sections; repealing RCW 18.64.260; and prescribing penalties.

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

ARTICLE I--DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

(2) The term does not include:

(i) a controlled substance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

((~~(o)~~)) (p) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling

or relabeling of its container((~~, except that this~~)). The term does not include the preparation ((~~or~~)), compounding, packaging, repackaging, labeling, or relabeling of a controlled substance ((~~by an individual for his or her own use or the preparation, compounding, packaging, or labeling of a controlled substance~~)):

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

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

((~~(p)~~)) (q) "Marijuana" or "marihuana" means all parts of the plant ((~~of the genus~~)) Cannabis ((~~L.~~)), whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. ((~~It~~)) The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

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

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

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

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

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

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(z)~~)) (aa) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth

of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

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

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

ARTICLE II--STANDARDS AND SCHEDULES

Sec. 2. RCW 69.50.201 and 1989 1st ex.s. c 9 s 430 are each amended to read as follows:

AUTHORITY TO CONTROL. (a) The state board of pharmacy shall enforce this chapter and may add substances to or delete or reschedule ((~~all~~)) substances ((~~enumerated in the schedules~~)) listed in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, or 69.50.212 pursuant to the ((~~rule-making~~)) procedures of chapter 34.05 RCW.

(1) In making a determination regarding a substance, the board shall consider the following:

((~~(1)~~)) (i) the actual or relative potential for abuse;

((~~(2)~~)) (ii) the scientific evidence of its pharmacological effect, if known;

((~~(3)~~)) (iii) the state of current scientific knowledge regarding the substance;

((~~(4)~~)) (iv) the history and current pattern of abuse;

((~~(5)~~)) (v) the scope, duration, and significance of abuse;

((~~(6)~~)) (vi) the risk to the public health;

((~~(7)~~)) (vii) the potential of the substance to produce psychic or physiological dependence liability; and

((~~(8)~~)) (viii) whether the substance is an immediate precursor of a ((~~substance already~~)) controlled ((~~under this Article~~)) substance.

((~~(b) After considering the factors enumerated in subsection (a) the board may issue a rule controlling the substance if it finds the substance has a potential for abuse.~~

~~(c) If the board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.~~

~~(d) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the board, the substance shall be similarly controlled under this chapter after the expiration of thirty days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that thirty day period, the board objects to inclusion, rescheduling, or deletion. In that case, the board shall proceed pursuant to the rule-making procedures of chapter 34.05 RCW.~~

~~(e) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 66 RCW and Title 26 RCW.~~

~~(f) The board shall exclude any nonnarcotic substances from a schedule if such substances may, under the Federal Food, Drug and Cosmetic Act, and under regulations of the drug enforcement administration, and the laws of this state including RCW 18.64.250, be lawfully sold over the counter.~~))

(2) The board may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.

((~~(g)~~)) (b) On or before December 1 of each year, the board shall inform the committees of reference of the legislature of the controlled substances added, deleted, or changed on the schedules specified in this chapter and which includes an explanation of these actions.

(c) After considering the factors enumerated in subsection (a) of this section, the board shall make findings with respect thereto and adopt and cause to be published a rule controlling the substance upon finding the substance has a potential for abuse.

(d) The board, without regard to the findings required by subsection (a) of this section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and 69.50.211 or the procedures prescribed by subsections (a) and (c) of this section, may place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule. If the board designates a substance as an immediate precursor, substances that are precursors of the controlled precursor are not subject to control solely because they are precursors of the controlled precursor.

(e) If a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the board shall similarly

control the substance under this chapter after the expiration of thirty days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance or from the date of issuance of an order of temporary scheduling under Section 508 of the federal Dangerous Drug Diversion Control Act of 1984, 21 U.S.C. Sec. 811(h), unless within that thirty-day period, the board or an interested party objects to inclusion, rescheduling, temporary scheduling, or deletion. If no objection is made, the board shall adopt and cause to be published, without the necessity of making determinations or findings as required by subsection (a) of this section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and 69.50.211, a final rule, for which notice of proposed rulemaking is omitted, designating, rescheduling, temporarily scheduling, or deleting the substance. If an objection is made, the board shall make a determination with respect to the designation, rescheduling, or deletion of the substance as provided by subsection (a) of this section. Upon receipt of an objection to inclusion, rescheduling, or deletion under this chapter by the board, the board shall publish notice of the receipt of the objection, and control under this chapter is stayed until the board adopts a rule as provided by subsection (a) of this section.

(f) The board, by rule and without regard to the requirements of subsection (a) of this section, may schedule a substance in Schedule I regardless of whether the substance is substantially similar to a controlled substance in Schedule I or II if the board finds that scheduling of the substance on an emergency basis is necessary to avoid an imminent hazard to the public safety and the substance is not included in any other schedule or no exemption or approval is in effect for the substance under Section 505 of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 355. Upon receipt of notice under RCW 69.50.--- (section 14 of this act), the board shall initiate scheduling of the controlled substance analog on an emergency basis pursuant to this subsection. The scheduling of a substance under this subsection expires one year after the adoption of the scheduling rule. With respect to the finding of an imminent hazard to the public safety, the board shall consider whether the substance has been scheduled on a temporary basis under federal law or factors set forth in subsection (a)(1) (iv), (v), and (vi) of this section, and may also consider clandestine importation, manufacture, or distribution, and, if

available, information concerning the other factors set forth in subsection (a)(1) of this section. A rule may not be adopted under this subsection until the board initiates a rule-making proceeding under subsection (a) of this section with respect to the substance. A rule adopted under this subsection must be vacated upon the conclusion of the rule-making proceeding initiated under subsection (a) of this section with respect to the substance.

(g) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Titles 66 and 26 RCW.

Sec. 3. RCW 69.50.203 and 1971 ex.s. c 308 s 69.50.203 are each amended to read as follows:

SCHEDULE I TESTS. (a) The state board of pharmacy shall place a substance in Schedule I ((~~if it finds~~)) upon finding that the substance:

(1) has high potential for abuse; ((~~and~~))

(2) has no currently accepted medical use in treatment in the United States ((~~or~~)); and

(3) lacks accepted safety for use in treatment under medical supervision.

(b) The board may place a substance in Schedule I without making the findings required by subsection (a) of this section if the substance is controlled under Schedule I of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

Sec. 4. RCW 69.50.204 and 1986 c 124 s 3 are each amended to read as follows:

SCHEDULE I. ((~~(a) The controlled substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name, are included in Schedule I.~~

~~(b) Opiates. Unless specifically excepted or unless listed in another schedule, any~~)) Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers((~~,~~)) whenever

the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide;

(2) Acetylmethadol;

((~~(2) Alfentanil;~~))

(3) Allylprodine;

(4) Alphacetylmethadol;

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-alpha-methyl-beta-phenyl) ethyl-4-piperidyl] ((~~propionanllide~~)) propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(9) Benzethidine;

((~~(9)~~)) (10) Betacetylmethadol;

((~~(10)~~)) (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl some trade or other names: N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(13) Betameprodine;

((~~(11)~~)) (14) Betamethadol;

((~~(12)~~)) (15) Betaprodine;

((~~(13)~~)) (16) Clonitazene;

((~~(14)~~)) (17) Dextromoramide;

((~~(15)~~)) (18) Diampromide;

((~~(16)~~)) (19) Diethylthiambutene;

((~~(17)~~)) (20) Difenoxin;

((~~(18)~~)) (21) Dimenoxadol;

((~~(19)~~)) (22) Dimepheptanol;

((~~(20)~~)) (23) Dimethylthiambutene;

((~~(21)~~)) (24) Dioxaphetyl butyrate;

((~~(22)~~)) (25) Dipipanone;

((~~(23)~~)) (26) Ethylmethylthiambutene;

((~~(24)~~)) (27) Etonitazene;

((~~(25)~~)) (28) Etoxeridine;

((~~(26)~~)) (29) Furethidine;

((~~(27)~~)) (30) Hydroxypethidine;

((~~(28)~~)) (31) Ketobemidone;
((~~(29)~~)) (32) Levomoramide;
((~~(30)~~)) (33) Levophenacylmorphan;
((~~(31)~~)) (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylprop anamide);
(35) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide;
(36) Morpheridine;
((~~(32)~~)) (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(38) Noracymethadol;
((~~(33)~~)) (39) Norlevorphanol;
((~~(34)~~)) (40) Normethadone;
((~~(35)~~)) (41) Norpipanone;
((~~(36)~~)) (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide;
(43) PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
(44) Phenadoxone;
((~~(37)~~)) (45) Phenampromide;
((~~(38)~~)) (46) Phenomorphan;
((~~(39)~~)) (47) Phenoperidine;
((~~(40)~~)) (48) Piritramide;
((~~(41) Propheptazine~~)) (49) Proheptazine;
((~~(42)~~)) (50) Properidine;
((~~(43)~~)) (51) Propiram;
((~~(44)~~)) (52) Racemoramide;
((~~(45)~~)) (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanaminde;
(54) Tilidine;
((~~(46)~~)) (55) Trimeperidine.

((~~(c)~~)) (b) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, including their salts, isomers, and salts of isomers((~~,~~)) whenever the existence of ((~~these~~)) those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;

(6) Cyprenorphine;

(7) Desomorphine;

(8) 3,4-methylenedioxy-N-ethylamphetamine some trade or other names: N-ethyl-alpha-methyl-3,4(methylenedioxy)phenthylamine, N-ethyl MDA, MDE, MDEA;

(9) N-hydroxy-3,4-methylenedioxyamphetamine some trade or other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

(10) Dihydromorphine;

((~~(9)~~)) (11) Drotebanol;

((~~(10)~~)) (12) Etorphine((~~(~~)), except hydrochloride salt((~~)~~));

((~~(11)~~)) (13) Heroin;

((~~(12)~~)) (14) Hydromorphinol;

((~~(13)~~)) (15) Methyldesorphine;

((~~(14)~~)) (16) Methyldihydromorphine;

((~~(15)~~)) (17) Morphine methylbromide;

((~~(16)~~)) (18) Morphine methylsulfonate;

((~~(17)~~)) (19) Morphine-N-Oxide;

((~~(18)~~)) (20) Myrophine;

((~~(19)~~)) (21) Nicocodeine;

((~~(20)~~)) (22) Nicomorphine;

((~~(21)~~)) (23) Normorphine;

((~~(22)~~)) (24) Pholcodine;

((~~(23)~~)) (25) Thebacon.

((~~(d)~~)) (c) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, ((~~or which contains any of its~~)) including their salts, isomers, and salts of isomers((~~,~~)) whenever the existence of ((~~such~~)) those salts, isomers, and salts of isomers is possible within the specific chemical designation ((~~For purposes of paragraph (d) of this section, only, the term "isomer" includes the optical, position, and geometric isomers.~~)):

~~(1) 3,4-methylenedioxy amphetamine;~~

~~(2) 5-methoxy-3,4-methylenedioxy amphetamine;~~

~~(3) 3,4,5-trimethoxy amphetamine;~~

~~(4) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethyloxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA;~~

~~(5) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;~~

~~(6) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;~~

~~(7) 4-methyl-2,5-dimethoxyamphetamine: Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; "STP";~~

~~(8) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;~~

~~(9) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;~~

~~(10) Dimethyltryptamine: Some trade or other names: DMT;~~

~~(11) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9methano-5H-pyndo (1',2'1,2) azepino (5,4-b) indole; Tabernanthe iboga;~~

~~(12) Lysergic acid diethylamide;~~

~~(13) Marihuana;~~

~~(14) Mescaline;~~

~~(15) Parahexyl-7374; some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;~~

~~(16) Peyote, meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule I(c)(12));~~

~~(17) N-ethyl-3-piperidyl benzilate;~~

~~(18) N-methyl-3-piperidyl benzilate;~~

~~(19) Psilocybin;~~

~~(20) Psilocyn;~~

~~(21) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, specifically, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:~~

~~(i) Delta 1 - cis - or trans tetrahydrocannabinol, and their optical isomers;~~

~~(ii) Delta 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;~~

~~(iii) Delta 3.4 - cis - or trans tetrahydrocannabinol, and its optical isomers;~~

~~(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered, are all included.)~~

~~(22) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1phenylcyclohexalymine, (1-phenylcyclohexl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;~~

~~(23) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phencyclohexyl)pyrrolidine; PCPy; PHP;~~

~~(24) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thenyl]-cyclohexly)-pipendine; 2-thienylanalog of phencyclidine; TPCP; TCP~~)).

(~~((e) Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of mecloqualone having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

~~(1) Mecloqualone;~~

~~(2) Methaqualone.~~

~~(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:~~

~~(1) Fenethyline;~~

~~(2) N-ethylamphetamine;~~

~~(3) 3-methylfentanyl (N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylpropanamide), its optical and geometric isomers, salts and salts of isomers;~~

~~(4) 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;~~

~~(5) 1-methyl-4-phenyl-4-propionoxy-piperidine (MPPP), its optical isomers, salts, and salts of isomers;~~

~~(6) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (PEPAP), its optical isomers, salts and salts of isomers~~)) (1) 4-bromo-2,5-

dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;

(2) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;

(3) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;

(4) 5-methoxy-3,4-methylenedioxy-amphetamine;

(5) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";

(6) 3,4-methylenedioxy amphetamine;

(7) 3,4-methylenedioxymethamphetamine (MDMA);

(8) 3,4,5-trimethoxy amphetamine;

(9) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(10) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;

(11) Dimethyltryptamine: Some trade or other names: DMT;

(12) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9methano-5H-pyndo (1′,2′ 1,2) azepino (5,4-b) indole; Tabernanthe iboga;

(13) Lysergic acid diethylamide;

(14) Marihuana or marijuana;

(15) Mescaline;

(16) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

(17) Peyote, meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12))

(18) N-ethyl-3-piperidyl benzilate;

(19) N-methyl-3-piperidyl benzilate;

(20) Psilocybin;

(21) Psilocyn;

(22) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, species, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) Delta 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

(ii) Delta 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(iii) Delta 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(23) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1phenylcyclohexalymine, (1-phenylcyclohexl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(24) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phencyclohexyl)pyrrolidine; PCPy; PHP;

(25) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thenyl]-cyclohexly)-pipendine; 2-thienylanalog of phencyclidine; TPCP; TCP;

(26) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) Mecloqualone.

(2) Methaqualone.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Fenethylline;

(2) (+-)cis-4-methylaminorex ((+-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(3) N-ethylamphetamine;

(4) N,N-dimethylamphetamine: some trade or other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be rescheduled or deleted as provided for in RCW 69.50.201.

Sec. 5. RCW 69.50.205 and 1971 ex.s. c 308 s 69.50.205 are each amended to read as follows:

SCHEDULE II TESTS. (a) The state board of pharmacy shall place a substance in Schedule II ((~~if it finds~~)) upon finding that:

(1) the substance has high potential for abuse;

(2) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) the abuse of the substance may lead to severe ((~~psychic~~)) psychological or physical dependence.

(b) The state board of pharmacy may place a substance in Schedule II without making the findings required by subsection (a) of this section if the substance is controlled under Schedule II of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

Sec. 6. RCW 69.50.206 and 1986 c 124 s 4 are each amended to read as follows:

SCHEDULE II. (a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan,

nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(i) Raw opium;

(ii) Opium extracts;

(iii) Opium fluid ((~~extracts~~));

(iv) Powdered opium;

(v) Granulated opium;

(vi) Tincture of opium;

(vii) Codeine;

(viii) Ethylmorphine;

(ix) Etorphine hydrochloride;

(x) Hydrocodone;

(xi) Hydromorphone;

(xii) Metopon;

(xiii) Morphine;

(xiv) Oxycodone;

(xv) Oxymorphone; and

(xvi) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof ((~~which~~)) that is chemically equivalent or identical with any of the substances referred to in ((~~paragraph~~)) subsection (b)(1) of this section, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves including cocaine and ecgonine, and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(5) Methylbenzoylecgonine (cocaine -- its salts, optical isomers, and salts of optical isomers).

(6) Concentrate of poppy straw (The crude extract of poppy straw in either liquid, solid, or powder form which contains the ((~~phenanthrine~~)) phenanthrene alkaloids of the opium poppy.)

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following synthetic opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and

salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanil;

(2) Alphaprodine;

((~~(2)~~)) (3) Anileridine;

((~~(3)~~)) (4) Bezitramide;

((~~(4)~~)) (5) Bulk dextropropoxyphene (nondosage forms);

(6) Carfentanil;

((~~(5)~~)) (7) Dihydrocodeine;

((~~(6)~~)) (8) Diphenoxylate;

((~~(7)~~)) (9) Fentanyl;

((~~(8)~~)) (10) Isomethadone;

((~~(9)~~)) (11) Levomethorphan;

((~~(10)~~)) (12) Levorphanol;

((~~(11)~~)) (13) Metazocine;

((~~(12)~~)) (14) Methadone;

((~~(13)~~)) (15) Methadone--Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

((~~(14)~~)) (16) Moramide--Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;

((~~(15)~~)) (17) Pethidine ((~~(meperidene)~~)) (meperidine);

((~~(16)~~)) (18) Pethidine--Intermediate-((~~—~~))A, 4-cyano-1-methyl-4-phenylpiperidine;

((~~(17)~~)) (19) Pethidine--Intermediate((—))-B, ethyl-4-phenylpiperidine-4-carboxylate;

((~~(18)~~)) (20) Pethidine--Intermediate((—))-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

((~~(19)~~)) (21) Phenazocine;

((~~(20)~~)) (22) Piminodine;

((~~(21)~~)) (23) Racemethorphan;

((~~(22)~~)) (24) Racemorphan;

((~~(23)~~)) (25) Sufentanil.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Methamphetamine, its salts, isomers, and salts of its isomers;

(3) Phenmetrazine and its salts;

(4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Glutethimide;

(3) Pentobarbital;

((~~(3)~~)) (4) Phencyclidine;

((~~(4)~~)) (5) Secobarbital.

(f) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product. (Some other names for dronabinol [6aR-trans]-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-i-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.)

(2) Nabilone: Some trade or other names are (æ)-trans3-(1,1-dimethlheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzol[b,d]pyran-9-one].

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

((~~(2)~~)) (i) Phenylacetone: Some trade or other names phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone.

((~~(3)~~)) (2) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine;

(ii) 1-piperidinocyclohexanecarbonitrile (PCC).

The controlled substances in this section may be rescheduled or deleted as provided for in RCW 69.50.201.

Sec. 7. RCW 69.50.207 and 1971 ex.s. c 308 s 69.50.207 are each amended to read as follows:

SCHEDULE III TESTS. (a) The state board of pharmacy shall place a substance in Schedule III ((~~if it finds~~)) upon finding that:

(1) the substance has a potential for abuse less than the substances ((~~listed~~)) included in Schedules I and II;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(b) The state board of pharmacy may place a substance in Schedule III without making the findings required by subsection (a) of this section if the substance is controlled under Schedule III of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

Sec. 8. RCW 69.50.208 and 1986 c 124 s 5 are each amended to read as follows:

SCHEDULE III. ((~~(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule III.~~

~~(b) Stimulants. Unless specifically excepted or unless listed in another schedule,~~)) Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule III:

(a) Any material, compound, mixture, or preparation ((~~which contains~~)) containing any quantity of the following substances having a stimulant effect on the central nervous system, including ((~~its~~)) their salts, isomers ((~~(whether optical, position, or geometric)~~)), and salts of ((~~such~~)) isomers whenever the existence of ((~~such~~)) those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) ((~~Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations are referred to as excepted compounds in Schedule III as published in 21 CFR 1308.13(b)(1) as of April 1, 1985, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances~~)) Any compound, mixture, or preparation in dosage unit form containing any stimulant substance included in Schedule II and which was listed as an excepted compound on August 25, 1971, pursuant to the federal controlled substances act, and any other drug of the quantitative composition

shown in that list for those drugs or which is the same except for containing a lesser quantity of controlled substances;

(2) Benzphetamine;

(3) Chlorphentermine;

(4) Clortermine;

(5) Phendimetrazine.

((~~(c)~~)) (b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(2) Any suppository dosage form containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

(4) Chlorhexadol;

(5) ((~~Glutethimide;~~

~~(6)~~)) Lysergic acid;

((~~(7)~~)) (6) Lysergic acid amide;

((~~(8)~~)) (7) Methyprylon;

((~~(9)~~)) (8) Sulfondiethylmethane;

((~~(10)~~)) (9) Sulfonethylmethane;

((~~(11)~~)) (10) Sulfonmethane;

(11) Tiletamine and zolazepam or any of their salts--some trade or other names for a tiletamine-zolazepam combination product: Telazol some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl) cyclohexanone--some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one flupyrazapon.).

((~~(d)~~)) (c) Nalorphine.

(d) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

(1) Boldenone;

(2) Chlorotestosterone;

(3) Clostebol;

(4) Dehydrochlormethyltestosterone;

(5) Dihydrotestosterone;

(6) Drostanolone;

(7) Ethylestrenol;

(8) Fluoxymesterone;

(9) Formebulone;

(10) Mesterolone;

(11) Methandienone;

(12) Methandranone;

(13) Methandriol;

(14) Methandrostenolone;

(15) Methenolone;

(16) Methyltestosterone;

(17) Mibolerone;

(18) Nanrolone;

(19) Norethandrolone;

(20) Oxandrolone;

(21) Oxymesterone;

(22) Oxymetholone;

(23) Stanolone;

(24) Stanozolol;

(25) Testolactone;

(26) Testosterone;

(27) Trenbolone; and

(28) Any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth. Except such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use

such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subsection.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in ((~~paragraph (e) of this section~~)) this subsection:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

The state board of pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (a)(1) and (2) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central

nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a stimulant or depressant effect on the central nervous system.

The controlled substances listed in this section may be rescheduled or deleted as provided for in RCW 69.50.201.

Sec. 9. RCW 69.50.209 and 1971 ex.s. c 308 s 69.50.209 are each amended to read as follows:

SCHEDULE IV TESTS. (a) The state board of pharmacy shall place a substance in Schedule IV ((~~if it finds~~)) upon finding that:

(1) the substance has a low potential for abuse relative to substances in Schedule III;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in Schedule III.

(b) The state board of pharmacy may place a substance in Schedule IV without making the findings required by subsection (a) of this section if the substance is controlled under Schedule IV of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

Sec. 10. RCW 69.50.210 and 1986 c 124 s 6 are each amended to read as follows:

SCHEDULE IV. ((~~(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule IV.~~

~~(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule,~~)) Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule IV:

(a) Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)((~~-e~~))-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

((~~(c)~~)) (b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation ((~~which contains~~)) containing any quantity of the following substances having a depressant effect on the central nervous system, including ((~~its~~)) their salts, isomers, and salts of isomers whenever the existence of ((~~such~~)) those salts, isomers, and salts of isomers is possible within the specific chemical designation:

((~~(1) Alprazolam;~~

~~(2) Barbital;~~

~~(3) Chloral betaine;~~

~~(4) Chloral hydrate;~~

~~(5) Chlordiazepoxide;~~

~~(6) Clonazepam;~~

~~(7) Clorazepate;~~

~~(8) Diazepam;~~

~~(9) Ethchlorvynol;~~

~~(10) Ethinamate;~~

~~(11) Flurazepam;~~

~~(12) Halazepam;~~

~~(13) Lorazepam;~~

~~(14) Mebutamate;~~

~~(15) Meprobamate;~~

~~(16) Methohexital;~~

~~(17) Methylphenobarbital (mephobarbital);~~

~~(18) Oxazepam;~~

~~(19) Paraldehyde;~~

~~(20) Petrichloral;~~

~~(21) Phenobarbital;~~

~~(22) Prazepam;~~

~~(23) Temazepam;~~

~~(24) Triazolam.~~

~~(d) Fenfluramine.~~))

(1) Alprazolam;

(2) Barbital;

(3) Bromazepam;

(4) Camazepam;

(5) Chloral betaine;

(6) Chloral hydrate;
(7) Chlordiazepoxide;
(8) Clobazam;
(9) Clonazepam;
(10) Clorazepate;
(11) Clotiazepam;
(12) Cloxazolam;
(13) Delorazepam;
(14) Diazepam;
(15) Estazolam;
(16) Ethchlorvynol;
(17) Ethinamate;
(18) Ethyl loflazepate;
(19) Fludiazepam;
(20) Flunitrazepam;
(21) Flurazepam;
(22) Halazepam;
(23) Haloxazolam;
(24) Ketazolam;
(25) Loprazolam;
(26) Lorazepam;
(27) Lormetazepam;
(28) Mebutamate;
(29) Medazepam;
(30) Meprobamate;
(31) Methohexital;
(32) Methylphenobarbital (mephobarbital);
(33) Midazolam;
(34) Nimetazepam;
(35) Nitrazepam;
(36) Nordiazepam;
(37) Oxazepam;
(38) Oxazolam;
(39) Paraldehyde;
(40) Petrichloral;
(41) Phenobarbital;
(42) Pinazepam;
(43) Prazepam;
(44) Quazepam;

(45) Temazepam;

(46) Tetrazepam;

(47) Triazolam.

(c) Any material, compound, mixture, or preparation ((~~which contains~~)) containing any quantity of the following substance((~~s~~)), including its salts, isomers ((~~(whether optical, position, or geometric)~~)), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible((~~.~~)):

((~~(1)~~)) Fenfluramine.

((~~(e)~~)) (d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation ((~~which contains~~)) containing any quantity of the following substances having a stimulant effect on the central nervous system, including ((~~its~~)) their salts, isomers ((~~(whether optical, position, or geometric)~~)), and salts of ((~~such~~)) isomers ((~~whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation~~)):

(1) Cathine((+)norpseudoephedrine);

(2) Diethylpropion;

((~~(2)~~)) (3) Fencamfamin;

(4) Fenproporex;

(5) Mazindol;

((~~(3)~~)) (6) Mefenorex;

(7) Pemoline (including organometallic complexes and chelates thereof);

((~~(4)~~)) (8) Phentermine;

((~~(5)~~)) (9) Pipradrol;

((~~(6)~~)) (10) SPA ((-)-1-dimethylamino-1, 2-dephenylethane).

((~~(f)~~)) (e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation ((~~which contains~~)) containing any quantity of the following substance((~~s~~)), including its salts: (1) Pentazocine.

The state board of pharmacy may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for

abuse of the substances having a depressant effect on the central nervous system.

The controlled substances listed in this section may be rescheduled or deleted as provided for in RCW 69.50.201.

Sec. 11. RCW 69.50.211 and 1971 ex.s. c 308 s 69.50.211 are each amended to read as follows:

SCHEDULE V TESTS. (a) The state board of pharmacy shall place a substance in Schedule V ((~~if it finds~~)) upon finding that:

(1) the substance has low potential for abuse relative to the controlled substances ((~~listed~~)) included in Schedule IV;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance ((~~has~~)) may lead to limited physical dependence or psychological dependence ((~~liability~~)) relative to the ((~~controlled~~)) substances ((~~listed~~)) included in Schedule IV.

(b) The state board of pharmacy may place a substance in Schedule V without being required to make the findings required by subsection (a) of this section if the substance is controlled under Schedule V of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

Sec. 12. RCW 69.50.212 and 1986 c 124 s 7 are each amended to read as follows:

SCHEDULE V. ((~~(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule V.~~

~~(b) Narcotic drugs containing nonnarcotic active medicinal ingredients.~~)) Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule V:

(a) Any material, compound, mixture, or preparation containing any of the following narcotic drug and its salts: Buprenorphine.

(b) Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this ((~~section~~)) subsection, which ((~~shall include~~)) also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable

medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit((~~;~~

~~(c) Buprenorphine~~)).

(c) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

Pyrovalerone.

The controlled substances listed in this section may be rescheduled or deleted as provided for in RCW 69.50.201.

Sec. 13. RCW 69.50.213 and 1971 ex.s. c 308 s 69.50.213 are each amended to read as follows:

REPUBLISHING OF SCHEDULES. The state board of pharmacy shall ((~~at least semiannually for two years from May 21, 1971 and thereafter annually consider the revision of the schedules published pursuant to chapter 34.05 RCW~~)) publish updated schedules annually. Failure to publish updated schedules is not a defense in any administrative or judicial proceeding under this chapter.

NEW SECTION. **Sec. 14.** A new section is added to chapter 69.50 RCW to read as follows:

CONTROLLED SUBSTANCE ANALOG TREATED AS SCHEDULE I SUBSTANCE. A controlled substance analog, to the extent intended for human consumption, shall be treated, for the purposes of this chapter, as a substance included in Schedule I. Within thirty days after the initiation of prosecution with respect to a controlled substance analog

by indictment or information, the prosecuting attorney shall notify the state board of pharmacy of information relevant to emergency scheduling as provided for in RCW 69.50.201(f). After final determination that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may continue or take place.

ARTICLE III
REGULATION OF MANUFACTURE, DISTRIBUTION, AND DISPENSING OF CONTROLLED SUBSTANCES

Sec. 15. RCW 69.50.301 and 1991 c 229 s 9 are each amended to read as follows:

The ((~~state~~)) board ((~~of pharmacy~~)) may ((~~promulgate~~)) adopt rules and ((~~the secretary may set fees in accordance with RCW 43.70.250~~)) the department may charge reasonable fees, relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

Sec. 16. RCW 69.50.302 and 1989 1st ex.s. c 9 s 432 are each amended to read as follows:

REGISTRATION REQUIREMENTS. (a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, ((~~must~~)) shall obtain annually a registration issued by the department in accordance with the board's rules.

(b) A person((~~s~~)) registered by the department under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by ((~~their~~)) the registration and in conformity with ((~~the other provisions of~~)) this Article.

(c) The following persons need not register and may lawfully possess controlled substances under this chapter:

(1) an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if ((~~he~~)) the agent or employee is acting in the usual course of ((~~his~~)) business or employment. This exemption shall not include any agent or employee

distributing sample controlled substances to practitioners without an order;

(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a substance included in Schedule V ((~~substance~~)).

(d) The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers ((~~if it finds~~)) upon finding it consistent with the public health and safety. Personal practitioners licensed or registered in the state of Washington under the respective professional licensing acts shall not be required to be registered under this chapter unless the specific exemption is denied pursuant to RCW 69.50.305 for violation of any provisions of this chapter.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The department may inspect the establishment of a registrant or applicant for registration in accordance with rules adopted by the ((~~board's rule~~)) board.

Sec. 17. RCW 69.50.303 and 1989 1st ex.s. c 9 s 433 are each amended to read as follows:

REGISTRATION. (a) The department shall register an applicant to manufacture or distribute controlled substances included in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless the board determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(2) compliance with applicable federal, state, and local law;

(3) promotion of technical advances in the art of manufacturing controlled substances and the development of new substances;

(4) any convictions of the applicant under any laws of another country or federal ((~~and~~)) or state laws relating to any controlled substance;

((~~(4)~~)) (5) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

((~~(5)~~)) (6) furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

((~~(6)~~)) (7) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

((~~(7)~~)) (8) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) of this section does not entitle a registrant to manufacture ((~~and~~)) or distribute controlled substances included in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered, or exempted under RCW 69.50.302(d), to dispense any controlled substances or to conduct research with controlled substances included in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The board need not require separate registration under this Article for practitioners engaging in research with nonnarcotic ((~~controlled~~)) substances included in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under federal law to conduct research with substances included in Schedule I ((~~substances~~)) may conduct research with substances included in Schedule I ((~~substances~~)) within this state upon furnishing the board evidence of that federal registration.

(d) ((~~Compliance by manufacturers and distributors with the provisions of the federal law respecting registration entitles them to be registered under this chapter upon application and payment of the required fee~~)) A manufacturer or distributor registered under the federal Controlled Substances Act 21 U.S.C. Sec. 801 et seq. may submit a copy of the federal application as an application for registration as a manufacturer or distributor under this section.

Sec. 18. RCW 69.50.304 and 1989 1st ex.s. c 9 s 434 are each amended to read as follows:

REVOCATION AND SUSPENSION OF REGISTRATION. (a) A registration, or exemption from registration, under RCW 69.50.303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the state board of pharmacy upon ((~~a~~)) finding that the registrant has:

(1) ((~~has~~)) furnished false or fraudulent material information in any application filed under this chapter;

(2) ((~~has~~)) been ((~~found guilty~~)) convicted of a felony under any state or federal law relating to any controlled substance;

(3) ((~~has~~)) had ((~~his~~)) the registrant's federal registration suspended or revoked and is no longer authorized by federal law to manufacture, distribute, or dispense controlled substances; or

(4) ((~~has~~)) violated any state or federal rule or regulation regarding controlled substances.

(b) The board may limit revocation or suspension of a registration to the particular controlled substance ((~~or schedule of controlled substances,~~)) with respect to which grounds for revocation or suspension exist.

(c) If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application ((~~therefor~~)), orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The department may seize or place under seal any controlled substance owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by the registration. The controlled substance must be held for the benefit of the registrant or the registrant's successor in interest. The department shall notify a registrant, or the registrant's successor in interest, who has any controlled substance seized or placed under seal, of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The department may not dispose of any controlled

substance seized or placed under seal under this subsection until the expiration of one hundred eighty days after the controlled substance was seized or placed under seal. The costs incurred by the department in seizing, placing under seal, maintaining custody, and disposing of any controlled substance under this subsection may be recovered from the registrant, any proceeds obtained from the disposition of the controlled substance, or from both. Any balance remaining after the costs have been recovered from the proceeds of any disposition must be delivered to the registrant or the registrant's successor in interest.

(e) The department shall promptly notify the drug enforcement administration of all orders restricting, suspending, or revoking registration and all forfeitures of controlled substances.

Sec. 19. RCW 69.50.306 and 1971 ex.s. c 308 s 69.50.306 are each amended to read as follows:

RECORDS OF REGISTRANTS. Persons registered, or exempted from registration under RCW 69.50.302(d), to manufacture, distribute, or dispense((~~, or administer~~)) controlled substances under this chapter shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules adopted by the ((~~state~~)) board ((~~of pharmacy issues~~)).

Sec. 20. RCW 69.50.307 and 1971 ex.s. c 308 s 69.50.307 are each amended to read as follows:

ORDER FORMS. ((~~Controlled~~)) A substance((~~s~~)) included in Schedule I ((~~and~~)) or II ((~~shall~~)) may be distributed by a registrant or person exempt from registration under RCW 69.50.302(d) to another registrant, or person exempt from registration under RCW 69.50.302(d), only pursuant to an order form. Compliance with the provisions of federal law respecting order forms ((~~shall be deemed~~)) constitutes compliance with this section.

Sec. 21. RCW 69.50.308 and 1971 ex.s. c 308 s 69.50.308 are each amended to read as follows:

PRESCRIPTIONS. (a) A controlled substance may be dispensed only as provided in this section.

(b) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than at a pharmacy, to an ultimate user, ((~~no controlled~~)) a substance included

in Schedule II may not be dispensed without the written prescription of a practitioner.

((~~(b)~~)) (c) In emergency situations, as defined by rule of the state board of pharmacy, a substance included in Schedule II ((~~drugs~~)) may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed ((~~by~~)) with the pharmacy. The prescribing practitioner shall deliver the written prescription which was orally communicated to the pharmacy within seventy-two hours of the oral communication. Prescriptions shall be retained in conformity with the requirements of RCW 69.50.306. ((~~No~~)) A prescription for a substance included in Schedule II ((~~substance~~)) may not be refilled.

((~~(c)~~)) (d) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than at a pharmacy, to an ultimate user, a ((~~controlled~~)) substance included in Schedule III or IV, which is a prescription drug as determined under RCW 69.04.560, ((~~shall~~)) may not be dispensed without a written or oral prescription of a practitioner. Any oral prescription must be promptly reduced to writing. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

((~~(d)~~)) (e) A valid prescription or lawful order of a practitioner, in order to be effective in legalizing the possession of controlled substances, must be issued in good faith for a legitimate medical purpose by one authorized to prescribe the use of such controlled substance. An order purporting to be a prescription not in the course of professional treatment is not a valid prescription or lawful order of a practitioner within the meaning and intent of this chapter; and the person who knows or should know that ((~~he~~)) the person is filling such an order, as well as the person issuing it, can be charged with a violation of this chapter.

((~~(e) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.~~))

(f) A substance included in Schedule V must be distributed or dispensed only for a medical purpose.

(g) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's

profession. Medical treatment includes dispensing or administering a narcotic drug for pain, including intractable pain.

(h) No administrative sanction, or civil or criminal liability, authorized or created by this chapter may be imposed on a pharmacist for action taken in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

(i) An individual practitioner may not dispense a substance included in Schedule II, III, or IV for that individual practitioner's personal use.

NEW SECTION. **Sec. 22.** A new section is added to chapter 69.50 RCW to read as follows:

DIVERSION PREVENTION AND CONTROL. (a) As used in this section, "diversion" means the transfer of any controlled substance from a licit to an illicit channel of distribution or use.

(b) The department shall regularly prepare and make available to other state regulatory, licensing, and law enforcement agencies a report on the patterns and trends of actual distribution, diversion, and abuse of controlled substances.

(c) The department shall enter into written agreements with local, state, and federal agencies for the purpose of improving identification of sources of diversion and to improve enforcement of and compliance with this chapter and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent, and control drug diversion and drug abuse. The department shall convene periodic meetings to coordinate a state diversion prevention and control program. The department shall arrange for cooperation and exchange of information among agencies and with neighboring states and the federal government.

(d) The department shall report to the governor and to the presiding officer of each house of the legislature on the outcome of this program with respect to its effects on distribution and abuse of controlled substances, including recommendations for improving control and prevention of the diversion of controlled substances of this state.

ARTICLE IV
OFFENSES AND PENALTIES

Sec. 23. RCW 69.50.403 and 1971 ex.s. c 308 s 69.50.403 are each amended to read as follows:

PROHIBITED ACTS: C--PENALTIES. (a) It is unlawful for any person knowingly or intentionally:

(1) To distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by RCW 69.50.307;

(2) To use in the course of the manufacture ((~~or~~)), distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) To obtain or attempt to obtain a controlled substance, or procure or attempt to procure the administration of a controlled substance, (i) by fraud, deceit, misrepresentation, or subterfuge; or (ii) by forgery or alteration of a prescription or any written order; or (iii) by the concealment of material fact; or (iv) by the use of a false name or the giving of a false address.

(4) To falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

(5) To make or utter any false or forged prescription or false or forged written order.

(6) To affix any false or forged label to a package or receptacle containing controlled substances.

(7) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter; or

(8) ((~~To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.~~)) To possess a false or fraudulent prescription with intent to obtain a controlled substance.

(b) Information communicated to a practitioner in an effort unlawfully to procure a controlled substance or unlawfully to procure

the administration of such substance, shall not be deemed a privileged communication.

(c) ((~~Any~~)) A person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than two years, or fined not more than two thousand dollars, or both.

NEW SECTION. **Sec. 24.** A new section is added to chapter 69.50 RCW to read as follows:

COUNTERFEIT SUBSTANCES PROHIBITED--PENALTY. (a) It is unlawful for any person knowingly or intentionally to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser, other than the person who in fact manufactured, distributed, or dispensed the substance.

(b) It is unlawful for any person knowingly or intentionally to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof.

(c) A person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both.

MISCELLANEOUS PROVISIONS

Sec. 25. RCW 18.64.011 and 1989 1st ex.s. c 9 s 412 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(20) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance~~

~~or device in the course of his or her professional practice, prepares, compounds, packages, or labels such substance or device.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or

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

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

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

(11) "Drugs" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 26. RCW 69.41.010 and 1989 1st ex.s. c 9 s 426 and 1989 c 36 s 3 are each reenacted and amended to read as follows:

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

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

(a) A practitioner; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 27. RCW 18.130.040 and 1992 c 128 s 6 are each amended to read as follows:

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

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

(i) Dispensing opticians licensed under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

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

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists certified under chapter 18.06 RCW;

(viii) Radiologic technologists certified under chapter 18.84 RCW;

(ix) Respiratory care practitioners certified under chapter 18.89 RCW;

(x) Persons registered or certified under chapter 18.19 RCW;

(xi) Persons registered as nursing pool operators;

(xii) Nursing assistants registered or certified under chapter ((~~18.52B~~)) 18.88A RCW;

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

(xiv) Sex offender treatment providers certified under chapter 18.155 RCW; and

(xv) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32.040, and the board of medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with

an order entered pursuant to RCW 18.130.160 by the disciplining authority.

Sec. 28. RCW 18.130.175 and 1991 c 3 s 270 are each amended to read as follows:

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

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

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

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to

practice with reasonable skill or safety. The substance abuse program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

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

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

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

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

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

(i) An approved monitoring treatment program;

(ii) The professional association operating the program;

(iii) Members, employees, or agents of the program or association;

(iv) Persons reporting a license holder as being impaired or providing information about the license holder's impairment; and

(v) Professionals supervising or monitoring the course of the impaired license holder's treatment or rehabilitation.

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

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

Sec. 29. RCW 18.64.160 and 1985 c 7 s 60 are each amended to read as follows:

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

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

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

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

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

~~(5) He or she exhibits behavior which may be due to physical or mental impairment, which creates an undue risk of causing harm to him~~

~~or herself or to other persons when acting as a licensed pharmacist or intern;~~

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

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

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

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

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

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

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

NEW SECTION. **Sec. 30.** A new section is added to chapter 18.64 RCW to read as follows:

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

Sec. 31. RCW 18.64A.050 and 1989 1st ex.s. c 9 s 424 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 32.** A new section is added to chapter 18.64A RCW to read as follows:

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

NEW SECTION. **Sec. 33.** RCW 18.64.260 and 1987 c 202 s 184, 1969 ex.s. c 199 s 17, 1909 c 213 s 9, & 1899 c 121 s 17 are each repealed.

NEW SECTION. **Sec. 34.** (1) RCW 69.50.309 and 69.50.310 may be recodified as necessary by the code reviser to preserve the arrangement of the uniform controlled substances act of the national conference of commissioners on uniform state laws.

(2) The code reviser shall correct all references in the Revised Code of Washington to the sections of the code that may be recodified by this section.

NEW SECTION. **Sec. 35.** Section captions and headings as used in this act constitute no part of the law.

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