

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1609

63rd Legislature
2013 Regular Session

Passed by the House March 5, 2013
Yeas 90 Nays 7

Speaker of the House of Representatives

Passed by the Senate April 9, 2013
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1609** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1609

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Schmick, Cody, and Ryu

Read first time 02/01/13. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to the board of pharmacy; amending RCW 18.50.115,
2 18.53.010, 18.64.001, 18.64.003, 18.64.005, 18.64.009, 18.64.044,
3 18.64.046, 18.64.047, 18.64.140, 18.64.160, 18.64.165, 18.64.200,
4 18.64.205, 18.64.245, 18.64.246, 18.64.255, 18.64.257, 18.64.310,
5 18.64.360, 18.64.390, 18.64.410, 18.64.420, 18.64.450, 18.64.470,
6 18.64.480, 18.64.490, 18.64.500, 18.64.510, 18.64A.010, 18.64A.020,
7 18.64A.025, 18.64A.030, 18.64A.040, 18.64A.050, 18.64A.060, 18.64A.070,
8 18.64A.080, 18.92.012, 18.92.013, 18.92.015, 51.36.010, 64.44.010,
9 69.04.565, 69.04.730, 69.38.010, 69.38.060, 69.40.055, 69.41.010,
10 69.41.075, 69.41.080, 69.41.180, 69.41.210, 69.41.240, 69.41.250,
11 69.41.280, 69.41.310, 69.43.010, 69.43.020, 69.43.030, 69.43.035,
12 69.43.040, 69.43.043, 69.43.048, 69.43.050, 69.43.060, 69.43.090,
13 69.43.100, 69.43.105, 69.43.110, 69.43.130, 69.43.140, 69.43.165,
14 69.43.180, 69.45.010, 69.45.020, 69.45.060, 69.45.080, 69.45.090,
15 69.50.201, 69.50.203, 69.50.205, 69.50.207, 69.50.208, 69.50.209,
16 69.50.210, 69.50.211, 69.50.213, 69.50.214, 69.50.301, 69.50.302,
17 69.50.303, 69.50.304, 69.50.305, 69.50.306, 69.50.308, 69.50.310,
18 69.50.312, 69.50.320, 69.50.402, 69.50.501, 69.50.504, 69.50.507,
19 69.50.508, 69.50.601, 69.51.030, 69.51.040, 69.51.050, 69.51.060,
20 69.60.020, 69.60.040, 69.60.060, 69.60.080, 69.60.090, 70.24.280,
21 70.54.140, 70.106.150, 70.127.130, 70.225.020, and 82.04.272;

1 reenacting and amending RCW 18.64.011, 18.64.080, 18.130.040,
2 18.130.040, 28B.115.020, and 42.56.360; adding a new section to chapter
3 69.50 RCW; providing an effective date; and providing an expiration
4 date.

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

6 **Sec. 1.** RCW 18.50.115 and 1994 sp.s. c 9 s 707 are each amended to
7 read as follows:

8 A midwife licensed under this chapter may obtain and administer
9 prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho
10 immune globulin (human), and local anesthetic and may administer such
11 other drugs or medications as prescribed by a physician. A pharmacist
12 who dispenses such drugs to a licensed midwife shall not be liable for
13 any adverse reactions caused by any method of use by the midwife.

14 The secretary, after consultation with representatives of the
15 midwife advisory committee, the (~~board of pharmacy~~) pharmacy quality
16 assurance commission, and the medical quality assurance commission, may
17 adopt rules that authorize licensed midwives to purchase and use legend
18 drugs and devices in addition to the drugs authorized in this chapter.

19 **Sec. 2.** RCW 18.53.010 and 2006 c 232 s 1 are each amended to read
20 as follows:

21 (1) The practice of optometry is defined as the examination of the
22 human eye, the examination and ascertaining any defects of the human
23 vision system and the analysis of the process of vision. The practice
24 of optometry may include, but not necessarily be limited to, the
25 following:

26 (a) The employment of any objective or subjective means or method,
27 including the use of drugs, for diagnostic and therapeutic purposes by
28 those licensed under this chapter and who meet the requirements of
29 subsections (2) and (3) of this section, and the use of any diagnostic
30 instruments or devices for the examination or analysis of the human
31 vision system, the measurement of the powers or range of human vision,
32 or the determination of the refractive powers of the human eye or its
33 functions in general; and

34 (b) The prescription and fitting of lenses, prisms, therapeutic or

1 refractive contact lenses and the adaption or adjustment of frames and
2 lenses used in connection therewith; and

3 (c) The prescription and provision of visual therapy, therapeutic
4 aids, and other optical devices; and

5 (d) The ascertainment of the perceptive, neural, muscular, or
6 pathological condition of the visual system; and

7 (e) The adaptation of prosthetic eyes.

8 (2)(a) Those persons using topical drugs for diagnostic purposes in
9 the practice of optometry shall have a minimum of sixty hours of
10 didactic and clinical instruction in general and ocular pharmacology as
11 applied to optometry, as established by the board, and certification
12 from an institution of higher learning, accredited by those agencies
13 recognized by the United States office of education or the council on
14 postsecondary accreditation to qualify for certification by the
15 optometry board of Washington to use drugs for diagnostic purposes.

16 (b) Those persons using or prescribing topical drugs for
17 therapeutic purposes in the practice of optometry must be certified
18 under (a) of this subsection, and must have an additional minimum of
19 seventy-five hours of didactic and clinical instruction as established
20 by the board, and certification from an institution of higher learning,
21 accredited by those agencies recognized by the United States office of
22 education or the council on postsecondary accreditation to qualify for
23 certification by the optometry board of Washington to use drugs for
24 therapeutic purposes.

25 (c) Those persons using or prescribing drugs administered orally
26 for diagnostic or therapeutic purposes in the practice of optometry
27 shall be certified under (b) of this subsection, and shall have an
28 additional minimum of sixteen hours of didactic and eight hours of
29 supervised clinical instruction as established by the board, and
30 certification from an institution of higher learning, accredited by
31 those agencies recognized by the United States office of education or
32 the council on postsecondary accreditation to qualify for certification
33 by the optometry board of Washington to administer, dispense, or
34 prescribe oral drugs for diagnostic or therapeutic purposes.

35 (d) Those persons administering epinephrine by injection for
36 treatment of anaphylactic shock in the practice of optometry must be
37 certified under (b) of this subsection and must have an additional
38 minimum of four hours of didactic and supervised clinical instruction,

1 as established by the board, and certification from an institution of
2 higher learning, accredited by those agencies recognized by the United
3 States office of education or the council on postsecondary
4 accreditation to qualify for certification by the optometry board to
5 administer epinephrine by injection.

6 (e) Such course or courses shall be the fiscal responsibility of
7 the participating and attending optometrist.

8 (f)(i) All persons receiving their initial license under this
9 chapter on or after January 1, 2007, must be certified under (a), (b),
10 (c), and (d) of this subsection.

11 (ii) All persons licensed under this chapter on or after January 1,
12 2009, must be certified under (a) and (b) of this subsection.

13 (iii) All persons licensed under this chapter on or after January
14 1, 2011, must be certified under (a), (b), (c), and (d) of this
15 subsection.

16 (3) The board shall establish a list of topical drugs for
17 diagnostic and treatment purposes limited to the practice of optometry,
18 and no person licensed pursuant to this chapter shall prescribe,
19 dispense, purchase, possess, or administer drugs except as authorized
20 and to the extent permitted by the board.

21 (4) The board must establish a list of oral Schedule III through V
22 controlled substances and any oral legend drugs, with the approval of
23 and after consultation with the (~~board of pharmacy~~) pharmacy quality
24 assurance commission. No person licensed under this chapter may use,
25 prescribe, dispense, purchase, possess, or administer these drugs
26 except as authorized and to the extent permitted by the board. No
27 optometrist may use, prescribe, dispense, or administer oral
28 corticosteroids.

29 (a) The board, with the approval of and in consultation with the
30 (~~board of pharmacy~~) pharmacy quality assurance commission, must
31 establish, by rule, specific guidelines for the prescription and
32 administration of drugs by optometrists, so that licensed optometrists
33 and persons filling their prescriptions have a clear understanding of
34 which drugs and which dosages or forms are included in the authority
35 granted by this section.

36 (b) An optometrist may not:

37 (i) Prescribe, dispense, or administer a controlled substance for

1 more than seven days in treating a particular patient for a single
2 trauma, episode, or condition or for pain associated with or related to
3 the trauma, episode, or condition; or

4 (ii) Prescribe an oral drug within ninety days following ophthalmic
5 surgery unless the optometrist consults with the treating
6 ophthalmologist.

7 (c) If treatment exceeding the limitation in (b)(i) of this
8 subsection is indicated, the patient must be referred to a physician
9 licensed under chapter 18.71 RCW.

10 (d) The prescription or administration of drugs as authorized in
11 this section is specifically limited to those drugs appropriate to
12 treatment of diseases or conditions of the human eye and the adnexa
13 that are within the scope of practice of optometry. The prescription
14 or administration of drugs for any other purpose is not authorized by
15 this section.

16 (5) The board shall develop a means of identification and
17 verification of optometrists certified to use therapeutic drugs for the
18 purpose of issuing prescriptions as authorized by this section.

19 (6) Nothing in this chapter may be construed to authorize the use,
20 prescription, dispensing, purchase, possession, or administration of
21 any Schedule I or II controlled substance. The provisions of this
22 subsection must be strictly construed.

23 (7) With the exception of the administration of epinephrine by
24 injection for the treatment of anaphylactic shock, no injections or
25 infusions may be administered by an optometrist.

26 (8) Nothing in this chapter may be construed to authorize
27 optometrists to perform ophthalmic surgery. Ophthalmic surgery is
28 defined as any invasive procedure in which human tissue is cut,
29 ablated, or otherwise penetrated by incision, injection, laser,
30 ultrasound, or other means, in order to: Treat human eye diseases;
31 alter or correct refractive error; or alter or enhance cosmetic
32 appearance. Nothing in this chapter limits an optometrist's ability to
33 use diagnostic instruments utilizing laser or ultrasound technology.
34 Ophthalmic surgery, as defined in this subsection, does not include
35 removal of superficial ocular foreign bodies, epilation of misaligned
36 eyelashes, placement of punctal or lacrimal plugs, diagnostic dilation
37 and irrigation of the lacrimal system, orthokeratology, prescription

1 and fitting of contact lenses with the purpose of altering refractive
2 error, or other similar procedures within the scope of practice of
3 optometry.

4 **Sec. 3.** RCW 18.64.001 and 2011 c 336 s 493 are each amended to
5 read as follows:

6 There shall be a state (~~(board of pharmacy)~~) pharmacy quality
7 assurance commission consisting of (~~(seven)~~) fifteen members, to be
8 appointed by the governor by and with the advice and consent of the
9 senate. (~~(Five)~~) Ten of the members shall be designated as pharmacist
10 members (~~(and two)~~), four of the members shall be designated a public
11 member, and one member shall be a pharmacy technician.

12 Each pharmacist member shall be a citizen of the United States and
13 a resident of this state, and at the time of his or her appointment
14 shall have been a duly registered pharmacist under the laws of this
15 state for a period of at least five consecutive years immediately
16 preceding his or her appointment and shall at all times during his or
17 her incumbency continue to be a duly licensed pharmacist: PROVIDED,
18 That subject to the availability of qualified candidates the governor
19 shall appoint pharmacist members representative of the areas of
20 practice and geographically representative of the state of Washington.

21 The public member shall be a citizen of the United States and a
22 resident of this state. The public member shall be appointed from the
23 public at large, but shall not be affiliated with any aspect of
24 pharmacy.

25 Members of the (~~(board)~~) commission shall hold office for a term of
26 four years, and the terms shall be staggered so that the terms of
27 office of not more than two members will expire simultaneously on the
28 third Monday in January of each year.

29 No person who has been appointed to and served for two four year
30 terms shall be eligible for appointment to the (~~(board)~~) commission.

31 Each member shall qualify by taking the usual oath of a state
32 officer, which shall be filed with the secretary of state, and each
33 member shall hold office for the term of his or her appointment and
34 until his or her successor is appointed and qualified.

35 In case of the resignation or disqualification of a member, or a
36 vacancy occurring from any cause, the governor shall appoint a
37 successor for the unexpired term.

1 **Sec. 4.** RCW 18.64.003 and 1984 c 287 s 43 are each amended to read
2 as follows:

3 Members of the ((~~board~~)) commission shall meet at such places and
4 times as it shall determine and as often as necessary to discharge the
5 duties imposed upon it. The ((~~board~~)) commission shall elect a
6 chairperson and a vice chairperson from among its members. Each member
7 shall be compensated in accordance with RCW 43.03.240 and shall be
8 reimbursed for travel expenses in accordance with RCW 43.03.050 and
9 43.03.060.

10 **Sec. 5.** RCW 18.64.005 and 1990 c 83 s 1 are each amended to read
11 as follows:

12 The ((~~board~~)) commission shall:

13 (1) Regulate the practice of pharmacy and enforce all laws placed
14 under its jurisdiction;

15 (2) Prepare or determine the nature of, and supervise the grading
16 of, examinations for applicants for pharmacists' licenses;

17 (3) Establish the qualifications for licensure of pharmacists or
18 pharmacy interns;

19 (4) Conduct hearings for the revocation or suspension of licenses,
20 permits, registrations, certificates, or any other authority to
21 practice granted by the ((~~board~~)) commission, which hearings may also
22 be conducted by an administrative law judge appointed under chapter
23 34.12 RCW;

24 (5) Issue subpoenas and administer oaths in connection with any
25 hearing, or disciplinary proceeding held under this chapter or any
26 other chapter assigned to the ((~~board~~)) commission;

27 (6) Assist the regularly constituted enforcement agencies of this
28 state in enforcing all laws pertaining to drugs, controlled substances,
29 and the practice of pharmacy, or any other laws or rules under its
30 jurisdiction;

31 (7) Promulgate rules for the dispensing, distribution, wholesaling,
32 and manufacturing of drugs and devices and the practice of pharmacy for
33 the protection and promotion of the public health, safety, and welfare.
34 Violation of any such rules shall constitute grounds for refusal,
35 suspension, or revocation of licenses or any other authority to
36 practice issued by the ((~~board~~)) commission;

1 (8) Adopt rules establishing and governing continuing education
2 requirements for pharmacists and other licensees applying for renewal
3 of licenses under this chapter;

4 (9) Be immune, collectively and individually, from suit in any
5 action, civil or criminal, based upon any disciplinary proceedings or
6 other official acts performed as members of (~~such board~~) the
7 commission. Such immunity shall apply to employees of the department
8 when acting in the course of disciplinary proceedings;

9 (10) Suggest strategies for preventing, reducing, and eliminating
10 drug misuse, diversion, and abuse, including professional and public
11 education, and treatment of persons misusing and abusing drugs;

12 (11) Conduct or encourage educational programs to be conducted to
13 prevent the misuse, diversion, and abuse of drugs for health care
14 practitioners and licensed or certified health care facilities;

15 (12) Monitor trends of drug misuse, diversion, and abuse and make
16 periodic reports to disciplinary boards of licensed health care
17 practitioners and education, treatment, and appropriate law enforcement
18 agencies regarding these trends;

19 (13) Enter into written agreements with all other state and federal
20 agencies with any responsibility for controlling drug misuse,
21 diversion, or abuse and with health maintenance organizations, health
22 care service contractors, and health care providers to assist and
23 promote coordination of agencies responsible for ensuring compliance
24 with controlled substances laws and to monitor observance of these laws
25 and cooperation between these agencies. The department of social and
26 health services, the department of labor and industries, and any other
27 state agency including licensure disciplinary boards, shall refer all
28 apparent instances of over-prescribing by practitioners and all
29 apparent instances of legend drug overuse to the department. The
30 department shall also encourage such referral by health maintenance
31 organizations, health service contractors, and health care providers.

32 **Sec. 6.** RCW 18.64.009 and 1989 1st ex.s. c 9 s 411 are each
33 amended to read as follows:

34 Employees of the department, who are designated by the (~~board~~)
35 commission as enforcement officers, are declared to be peace officers
36 and shall be vested with police powers to enforce chapters 18.64,

1 69.04, 69.36, 69.40, 69.41, and 69.50 RCW and all other laws enforced
2 by the (~~board~~) commission.

3 **Sec. 7.** RCW 18.64.011 and 2009 c 549 s 1008 are each reenacted and
4 amended to read as follows:

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

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

10 (2) (~~"Board" means the Washington state board of pharmacy.~~)
11 "Commission" means the pharmacy quality assurance commission.

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

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

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

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

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

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

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

32 (10) The words "drug" and "devices" shall not include surgical or
33 dental instruments or laboratory materials, gas and oxygen, therapy
34 equipment, X-ray apparatus or therapeutic equipment, their component
35 parts or accessories, or equipment, instruments, apparatus, or
36 contrivances used to render such articles effective in medical,
37 surgical, or dental treatment, or for use or consumption in or for

1 mechanical, industrial, manufacturing, or scientific applications or
2 purposes, nor shall the word "drug" include any article or mixture
3 covered by the Washington pesticide control act (chapter 15.58 RCW), as
4 enacted or hereafter amended, nor medicated feed intended for and used
5 exclusively as a feed for animals other than human beings.

6 (11) "Drugs" means:

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

9 (b) Substances intended for use in the diagnosis, cure, mitigation,
10 treatment, or prevention of disease in human beings or other animals;

11 (c) Substances (other than food) intended to affect the structure
12 or any function of the body of human beings or other animals; or

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

16 (12) "Health care entity" means an organization that provides
17 health care services in a setting that is not otherwise licensed by the
18 state. Health care entity includes a freestanding outpatient surgery
19 center or a freestanding cardiac care center. It does not include an
20 individual practitioner's office or a multipractitioner clinic.

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

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

28 (15) "Manufacture" means the production, preparation, propagation,
29 compounding, or processing of a drug or other substance or device or
30 the packaging or repackaging of such substance or device, or the
31 labeling or relabeling of the commercial container of such substance or
32 device, but does not include the activities of a practitioner who, as
33 an incident to his or her administration or dispensing such substance
34 or device in the course of his or her professional practice, prepares,
35 compounds, packages, or labels such substance or device.

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

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

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

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

11 (20) "Pharmacist" means a person duly licensed by the (~~Washington~~
12 ~~state board of pharmacy~~) commission to engage in the practice of
13 pharmacy.

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

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

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

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

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

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

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

6 **Sec. 8.** RCW 18.64.044 and 2005 c 388 s 5 are each amended to read
7 as follows:

8 (1) A shopkeeper registered as provided in this section may sell
9 nonprescription drugs, if such drugs are sold in the original package
10 of the manufacturer.

11 (2) Every shopkeeper not a licensed pharmacist, desiring to secure
12 the benefits and privileges of this section, is hereby required to
13 register as a shopkeeper through the master license system, and he or
14 she shall pay the fee determined by the secretary for registration, and
15 on a date to be determined by the secretary thereafter the fee
16 determined by the secretary for renewal of the registration; and shall
17 at all times keep said registration or the current renewal thereof
18 conspicuously exposed in the location to which it applies. In event
19 such shopkeeper's registration is not renewed by the master license
20 expiration date, no renewal or new registration shall be issued except
21 upon payment of the registration renewal fee and the master license
22 delinquency fee under chapter 19.02 RCW. This registration fee shall
23 not authorize the sale of legend drugs or controlled substances.

24 (3) The registration fees determined by the secretary under
25 subsection (2) of this section shall not exceed the cost of registering
26 the shopkeeper.

27 (4) Any shopkeeper who shall vend or sell, or offer to sell to the
28 public any such nonprescription drug or preparation without having
29 registered to do so as provided in this section, shall be guilty of a
30 misdemeanor and each sale or offer to sell shall constitute a separate
31 offense.

32 (5) A shopkeeper who is not a licensed pharmacy may purchase
33 products containing any detectable quantity of ephedrine,
34 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
35 salts of isomers, only from a wholesaler licensed by the department
36 under RCW 18.64.046 or from a manufacturer licensed by the department

1 under RCW 18.64.045. The ((board)) commission shall issue a warning to
2 a shopkeeper who violates this subsection, and may suspend or revoke
3 the registration of the shopkeeper for a subsequent violation.

4 (6) A shopkeeper who has purchased products containing any
5 detectable quantity of ephedrine, pseudoephedrine, or
6 phenylpropanolamine, or their salts, isomers, or salts of isomers, in
7 a suspicious transaction as defined in RCW 69.43.035, is subject to the
8 following requirements:

9 (a) The shopkeeper may not sell any quantity of ephedrine,
10 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
11 salts of isomers, if the total monthly sales of these products exceed
12 ten percent of the shopkeeper's total prior monthly sales of
13 nonprescription drugs in March through October. In November through
14 February, the shopkeeper may not sell any quantity of ephedrine,
15 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
16 salts of isomers, if the total monthly sales of these products exceed
17 twenty percent of the shopkeeper's total prior monthly sales of
18 nonprescription drugs. For purposes of this section, "monthly sales"
19 means total dollars paid by buyers. The ((board)) commission may
20 suspend or revoke the registration of a shopkeeper who violates this
21 subsection.

22 (b) The shopkeeper shall maintain inventory records of the receipt
23 and disposition of nonprescription drugs, utilizing existing inventory
24 controls if an auditor or investigator can determine compliance with
25 (a) of this subsection, and otherwise in the form and manner required
26 by the ((board)) commission. The records must be available for
27 inspection by the ((board)) commission or any law enforcement agency
28 and must be maintained for two years. The ((board)) commission may
29 suspend or revoke the registration of a shopkeeper who violates this
30 subsection. For purposes of this subsection, "disposition" means the
31 return of product to the wholesaler or distributor.

32 **Sec. 9.** RCW 18.64.046 and 2005 c 388 s 6 are each amended to read
33 as follows:

34 (1) The owner of each place of business which sells legend drugs
35 and nonprescription drugs, or nonprescription drugs at wholesale shall
36 pay a license fee to be determined by the secretary, and thereafter, on
37 or before a date to be determined by the secretary as provided in RCW

1 43.70.250 and 43.70.280, a like fee to be determined by the secretary,
2 for which the owner shall receive a license of location from the
3 department, which shall entitle such owner to either sell legend drugs
4 and nonprescription drugs or nonprescription drugs at wholesale at the
5 location specified for the period ending on a date to be determined by
6 the secretary, and each such owner shall at the time of payment of such
7 fee file with the department, on a blank therefor provided, a
8 declaration of ownership and location, which declaration of ownership
9 and location so filed as aforesaid shall be deemed presumptive evidence
10 of the ownership of such place of business mentioned therein. It shall
11 be the duty of the owner to notify immediately the department of any
12 change of location and ownership and to keep the license of location or
13 the renewal thereof properly exhibited in such place of business.

14 (2) Failure to conform with this section is a misdemeanor, and each
15 day that the failure continues is a separate offense.

16 (3) In event the license fee remains unpaid on the date due, no
17 renewal or new license shall be issued except upon compliance with
18 administrative procedures, administrative requirements, and fees
19 determined as provided in RCW 43.70.250 and 43.70.280.

20 (4) No wholesaler may sell any quantity of drug products containing
21 ephedrine, pseudoephedrine, phenylpropanolamine, or their salts,
22 isomers, or salts of isomers, if the total monthly sales of these
23 products to persons within the state of Washington exceed five percent
24 of the wholesaler's total prior monthly sales of nonprescription drugs
25 to persons within the state in March through October. In November
26 through February, no wholesaler may sell any quantity of drug products
27 containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their
28 salts, isomers, or salts of isomers if the total monthly sales of these
29 products to persons within the state of Washington exceed ten percent
30 of the wholesaler's total prior monthly sales of nonprescription drugs
31 to persons within the state. For purposes of this section, monthly
32 sales means total dollars paid by buyers. The ((~~board~~)) commission may
33 suspend or revoke the license of any wholesaler that violates this
34 section.

35 (5) The ((~~board~~)) commission may exempt a wholesaler from the
36 limitations of subsection (4) of this section if it finds that the
37 wholesaler distributes nonprescription drugs only through transactions
38 between divisions, subsidiaries, or related companies when the

1 wholesaler and the retailer are related by common ownership, and that
2 neither the wholesaler nor the retailer has a history of suspicious
3 transactions in precursor drugs as defined in RCW 69.43.035.

4 (6) The requirements for a license apply to all persons, in
5 Washington and outside of Washington, who sell both legend drugs and
6 nonprescription drugs and to those who sell only nonprescription drugs,
7 at wholesale to pharmacies, practitioners, and shopkeepers in
8 Washington.

9 (7)(a) No wholesaler may sell any product containing any detectable
10 quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their
11 salts, isomers, or salts of isomers, to any person in Washington other
12 than a pharmacy licensed under this chapter, a shopkeeper or itinerant
13 vendor registered under this chapter, a practitioner as defined in RCW
14 18.64.011, or a traditional Chinese herbal practitioner as defined in
15 RCW 69.43.105.

16 (b) A violation of this subsection is punishable as a class C
17 felony according to chapter 9A.20 RCW, and each sale in violation of
18 this subsection constitutes a separate offense.

19 **Sec. 10.** RCW 18.64.047 and 2005 c 388 s 7 are each amended to read
20 as follows:

21 (1) Any itinerant vendor or any peddler of any nonprescription drug
22 or preparation for the treatment of disease or injury, shall pay a
23 registration fee determined by the secretary on a date to be determined
24 by the secretary as provided in RCW 43.70.250 and 43.70.280. The
25 department may issue a registration to such vendor on an approved
26 application made to the department.

27 (2) Any itinerant vendor or peddler who shall vend or sell, or
28 offer to sell to the public any such nonprescription drug or
29 preparation without having registered to do so as provided in this
30 section, is guilty of a misdemeanor and each sale or offer to sell
31 shall constitute a separate offense.

32 (3) In event the registration fee remains unpaid on the date due,
33 no renewal or new registration shall be issued except upon compliance
34 with administrative procedures, administrative requirements, and fees
35 determined as provided in RCW 43.70.250 and 43.70.280. This
36 registration shall not authorize the sale of legend drugs or controlled
37 substances.

1 (4) An itinerant vendor may purchase products containing any
2 detectable quantity of ephedrine, pseudoephedrine, or
3 phenylpropanolamine, or their salts, isomers, or salts of isomers only
4 from a wholesaler licensed by the department under RCW 18.64.046 or
5 from a manufacturer licensed by the department under RCW 18.64.045.
6 The ((board)) commission shall issue a warning to an itinerant vendor
7 who violates this subsection, and may suspend or revoke the
8 registration of the vendor for a subsequent violation.

9 (5) An itinerant vendor who has purchased products containing any
10 detectable quantity of ephedrine, pseudoephedrine, or
11 phenylpropanolamine, or their salts, isomers, or salts of isomers, in
12 a suspicious transaction as defined in RCW 69.43.035, is subject to the
13 following requirements:

14 (a) The itinerant vendor may not sell any quantity of ephedrine,
15 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
16 salts of isomers, if the total monthly sales of these products exceed
17 ten percent of the vendor's total prior monthly sales of
18 nonprescription drugs in March through October. In November through
19 February, the vendor may not sell any quantity of ephedrine,
20 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
21 salts of isomers, if the total monthly sales of these products exceed
22 twenty percent of the vendor's total prior monthly sales of
23 nonprescription drugs. For purposes of this section, "monthly sales"
24 means total dollars paid by buyers. The ((board)) commission may
25 suspend or revoke the registration of an itinerant vendor who violates
26 this subsection.

27 (b) The itinerant vendor shall maintain inventory records of the
28 receipt and disposition of nonprescription drugs, utilizing existing
29 inventory controls if an auditor or investigator can determine
30 compliance with (a) of this subsection, and otherwise in the form and
31 manner required by the ((board)) commission. The records must be
32 available for inspection by the ((board)) commission or any law
33 enforcement agency and must be maintained for two years. The ((board))
34 commission may suspend or revoke the registration of an itinerant
35 vendor who violates this subsection. For purposes of this subsection,
36 "disposition" means the return of product to the wholesaler or
37 distributor.

1 **Sec. 11.** RCW 18.64.080 and 1989 1st ex.s. c 9 ss 403, 420 and 1989
2 c 352 s 3 are each reenacted and amended to read as follows:

3 (1) The department may license as a pharmacist any person who has
4 filed an application therefor, subscribed by the person under oath or
5 affirmation, containing such information as the ((~~board~~)) commission
6 may by regulation require, and who--

7 (a) Is at least eighteen years of age;

8 (b) Has satisfied the ((~~board~~)) commission that he or she is of
9 good moral and professional character, that he or she will carry out
10 the duties and responsibilities required of a pharmacist, and that he
11 or she is not unfit or unable to practice pharmacy by reason of the
12 extent or manner of his or her proven use of alcoholic beverages,
13 drugs, or controlled substances, or by reason of a proven physical or
14 mental disability;

15 (c) Holds a baccalaureate degree in pharmacy or a doctor of
16 pharmacy degree granted by a school or college of pharmacy which is
17 accredited by the ((~~board of pharmacy~~)) commission;

18 (d) Has completed or has otherwise met the internship requirements
19 as set forth in ((~~board~~)) commission rules;

20 (e) Has satisfactorily passed the necessary examinations approved
21 by the ((~~board~~)) commission and administered by the department.

22 (2) The department shall, at least once in every calendar year,
23 offer an examination to all applicants for a pharmacist license who
24 have completed their educational and internship requirements pursuant
25 to rules promulgated by the ((~~board~~)) commission. The examination
26 shall be determined by the ((~~board~~)) commission. In case of failure at
27 a first examination, the applicant shall have within three years the
28 privilege of a second and third examination. In case of failure in a
29 third examination, the applicant shall not be eligible for further
30 examination until he or she has satisfactorily completed additional
31 preparation as directed and approved by the ((~~board~~)) commission. The
32 applicant must pay the examination fee determined by the secretary for
33 each examination taken. Upon passing the required examinations and
34 complying with all the rules and regulations of the ((~~board~~))
35 commission and the provisions of this chapter, the department shall
36 grant the applicant a license as a pharmacist and issue to him or her
37 a certificate qualifying him or her to enter into the practice of
38 pharmacy.

1 (3) Any person enrolled as a student of pharmacy in an accredited
2 college may file with the department an application for registration as
3 a pharmacy intern in which application he or she shall be required to
4 furnish such information as the ((~~board~~)) commission may, by
5 regulation, prescribe and, simultaneously with the filing of said
6 application, shall pay to the department a fee to be determined by the
7 secretary. All certificates issued to pharmacy interns shall be valid
8 for a period to be determined by the ((~~board~~)) commission, but in no
9 instance shall the certificate be valid if the individual is no longer
10 making timely progress toward graduation, provided however, the
11 ((~~board~~)) commission may issue an intern certificate to a person to
12 complete an internship to be eligible for initial licensure or for the
13 reinstatement of a previously licensed pharmacist.

14 (4) To assure adequate practical instruction, pharmacy internship
15 experience as required under this chapter shall be obtained after
16 registration as a pharmacy intern by practice in any licensed pharmacy
17 or other program meeting the requirements promulgated by regulation of
18 the ((~~board~~)) commission, and shall include such instruction in the
19 practice of pharmacy as the ((~~board~~)) commission by regulation shall
20 prescribe.

21 (5) The department may, without examination other than one in the
22 laws relating to the practice of pharmacy, license as a pharmacist any
23 person who, at the time of filing application therefor, is currently
24 licensed as a pharmacist in any other state, territory, or possession
25 of the United States. The person shall produce evidence satisfactory
26 to the department of having had the required secondary and professional
27 education and training and who was licensed as a pharmacist by
28 examination in another state prior to June 13, 1963, shall be required
29 to satisfy only the requirements which existed in this state at the
30 time he or she became licensed in such other state, and that the state
31 in which the person is licensed shall under similar conditions grant
32 reciprocal licenses as pharmacist without examination to pharmacists
33 duly licensed by examination in this state. Every application under
34 this subsection shall be accompanied by a fee determined by the
35 department.

36 (6) The department shall provide for, regulate, and require all
37 persons licensed as pharmacists to renew their license periodically,

1 and shall prescribe the form of such license and information required
2 to be submitted by all applicants.

3 **Sec. 12.** RCW 18.64.140 and 1996 c 191 s 47 are each amended to
4 read as follows:

5 Every licensed pharmacist who desires to practice pharmacy shall
6 secure from the department a license, the fee for which shall be
7 determined by the secretary under RCW 43.70.250 and 43.70.280. The
8 administrative procedures, administrative requirements, renewal fee,
9 and late renewal fee shall also be determined under RCW 43.70.250 and
10 43.70.280. Payment of this fee shall entitle the licensee to a
11 pharmacy law book, subsequent current mailings of all additions,
12 changes, or deletions in the pharmacy practice act, chapter 18.64 RCW,
13 and all additions, changes, or deletions of ((~~pharmacy board~~))
14 commission and department regulations. The current license shall be
15 conspicuously displayed to the public in the pharmacy to which it
16 applies. Any licensed pharmacist who desires to leave the active
17 practice of pharmacy in this state may secure from the department an
18 inactive license. The initial license and renewal fees shall be
19 determined by the secretary under RCW 43.70.250 and 43.70.280. The
20 holder of an inactive license may reactivate his or her license to
21 practice pharmacy in accordance with rules adopted by the ((~~board~~))
22 commission.

23 **Sec. 13.** RCW 18.64.160 and 1993 c 367 s 13 are each amended to
24 read as follows:

25 In addition to the grounds under RCW 18.130.170 and 18.130.180, the
26 ((~~board of pharmacy~~)) commission may take disciplinary action against
27 the license of any pharmacist or intern upon proof that:

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

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

35 (3) He or she has knowingly violated or permitted the violation of
36 any provision of any state or federal law, rule, or regulation

1 governing the possession, use, distribution, or dispensing of drugs,
2 including, but not limited to, the violation of any provision of this
3 chapter, Title 69 RCW, or rule or regulation of the ((board))
4 commission;

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

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

17 **Sec. 14.** RCW 18.64.165 and 1995 c 319 s 5 are each amended to read
18 as follows:

19 The ((board)) commission shall have the power to refuse, suspend,
20 or revoke the license of any manufacturer, wholesaler, pharmacy,
21 shopkeeper, itinerant vendor, peddler, poison distributor, health care
22 entity, or precursor chemical distributor upon proof that:

23 (1) The license was procured through fraud, misrepresentation, or
24 deceit;

25 (2) The licensee has violated or has permitted any employee to
26 violate any of the laws of this state or the United States relating to
27 drugs, controlled substances, cosmetics, or nonprescription drugs, or
28 has violated any of the rules and regulations of the ((board—of
29 pharmacy)) commission or has been convicted of a felony.

30 **Sec. 15.** RCW 18.64.200 and 1963 c 38 s 11 are each amended to read
31 as follows:

32 In any case of the refusal, suspension or revocation of a license
33 by ((said board)) the commission under the provisions of this chapter,
34 appeal may be taken in accordance with the Administrative Procedure
35 Act.

1 **Sec. 16.** RCW 18.64.205 and 1996 c 191 s 48 are each amended to
2 read as follows:

3 The ((~~board~~)) commission may adopt rules pursuant to this section
4 authorizing a retired active license status. An individual licensed
5 pursuant to this chapter, who is practicing only in emergent or
6 intermittent circumstances as defined by rule established by the
7 ((~~board~~)) commission, may hold a retired active license at a reduced
8 renewal fee established by the secretary under RCW 43.70.250 and
9 43.70.280. Such a license shall meet the continuing education
10 requirements, if any, established by the ((~~board~~)) commission for
11 renewals, and is subject to the provisions of the uniform disciplinary
12 act, chapter 18.130 RCW. Individuals who have entered into retired
13 status agreements with the disciplinary authority in any jurisdiction
14 shall not qualify for a retired active license under this section.

15 **Sec. 17.** RCW 18.64.245 and 2003 c 53 s 135 are each amended to
16 read as follows:

17 (1) Every proprietor or manager of a pharmacy shall keep readily
18 available a suitable record of prescriptions which shall preserve for
19 a period of not less than two years the record of every prescription
20 dispensed at such pharmacy which shall be numbered, dated, and filed,
21 and shall produce the same in court or before any grand jury whenever
22 lawfully required to do so. The record shall be maintained either
23 separately from all other records of the pharmacy or in such form that
24 the information required is readily retrievable from ordinary business
25 records of the pharmacy. All recordkeeping requirements for controlled
26 substances must be complied with. Such record of prescriptions shall
27 be for confidential use in the pharmacy, only. The record of
28 prescriptions shall be open for inspection by the ((~~board of pharmacy~~))
29 commission or any officer of the law, who is authorized to enforce
30 chapter 18.64, 69.41, or 69.50 RCW.

31 (2) A person violating this section is guilty of a misdemeanor.

32 **Sec. 18.** RCW 18.64.246 and 2003 c 53 s 136 are each amended to
33 read as follows:

34 (1) To every box, bottle, jar, tube or other container of a
35 prescription which is dispensed there shall be fixed a label bearing
36 the name and address of the dispensing pharmacy, the prescription

1 number, the name of the prescriber, the prescriber's directions, the
2 name and strength of the medication, the name of the patient, the date,
3 and the expiration date. The security of the cover or cap on every
4 bottle or jar shall meet safety standards adopted by the (~~state board~~
5 ~~of pharmacy~~) commission. At the prescriber's request, the name and
6 strength of the medication need not be shown. If the prescription is
7 for a combination medication product, the generic names of the
8 medications combined or the trade name used by the manufacturer or
9 distributor for the product shall be noted on the label. The
10 identification of the licensed pharmacist responsible for each
11 dispensing of medication must either be recorded in the pharmacy's
12 record system or on the prescription label. This section shall not
13 apply to the dispensing of medications to in-patients in hospitals.

14 (2) A person violating this section is guilty of a misdemeanor.

15 **Sec. 19.** RCW 18.64.255 and 2011 c 336 s 495 are each amended to
16 read as follows:

17 Nothing in this chapter shall operate in any manner:

18 (1) To restrict the scope of authorized practice of any
19 practitioner other than a pharmacist, duly licensed as such under the
20 laws of this state. However, a health care entity shall comply with
21 all state and federal laws and rules relating to the dispensing of
22 drugs and the practice of pharmacy; or

23 (2) In the absence of the pharmacist from the hospital pharmacy, to
24 prohibit a registered nurse designated by the hospital and the
25 responsible pharmacist from obtaining from the hospital pharmacy such
26 drugs as are needed in an emergency: PROVIDED, That proper record is
27 kept of such emergency, including the date, time, name of prescriber,
28 the name of the nurse obtaining the drugs, and a list of what drugs and
29 quantities of same were obtained; or

30 (3) To prevent shopkeepers, itinerant vendors, peddlers, or
31 salespersons from dealing in and selling nonprescription drugs, if such
32 drugs are sold in the original packages of the manufacturer, or in
33 packages put up by a licensed pharmacist in the manner provided by the
34 (~~state board of pharmacy~~) commission, if such shopkeeper, itinerant
35 vendor, salesperson, or peddler shall have obtained a registration.

1 law. The written operating agreement between the department and the
2 ((board)) commission, as required by RCW 43.70.240 shall include
3 provisions for the department to involve the ((board)) commission in
4 carrying out its duties required by this section.

5 **Sec. 22.** RCW 18.64.360 and 2005 c 275 s 3 are each amended to read
6 as follows:

7 (1) For the purposes of this chapter any pharmacy located outside
8 this state that ships, mails, or delivers, in any manner, except when
9 delivered in person to an individual, controlled substances, legend
10 drugs, or devices into this state is a nonresident pharmacy, and shall
11 be licensed by the department of health, and shall disclose to the
12 department the following:

13 (a) The location, names, and titles of all owners including
14 corporate officers and all pharmacists employed by the pharmacy who are
15 dispensing controlled substances, legend drugs, or devices to residents
16 of this state. A report containing this information shall be made on
17 an annual basis and within ninety days after a change of location,
18 corporate officer, or pharmacist;

19 (b) Proof of compliance with all lawful directions and requests for
20 information from the regulatory or licensing agency of the state or
21 Canadian province in which it is licensed as well as with all requests
22 for information made by the department of health under this section.
23 The nonresident pharmacy shall maintain, at all times, a valid
24 unexpired license, permit, or registration to operate the pharmacy in
25 compliance with the laws of the state or Canadian province in which it
26 is located. As a prerequisite to be licensed by the department of
27 health, the nonresident pharmacy shall submit a copy of the most recent
28 inspection report issued by the regulatory licensing agency of the
29 state or Canadian province in which it is located;

30 (c) Proof that it maintains its records of controlled substances,
31 legend drugs, or devices dispensed to patients in this state so that
32 the records are readily retrievable from the records of other drugs
33 dispensed.

34 (2) Any pharmacy subject to this section shall, during its regular
35 hours of operation, provide a toll-free telephone service to facilitate
36 communication between patients in this state and a pharmacist at the

1 pharmacy who has access to the patient's records. This toll-free
2 number shall be disclosed on the label affixed to each container of
3 drugs dispensed to patients in this state.

4 (3) A pharmacy subject to this section shall comply with (~~board~~)
5 commission rules regarding the maintenance and use of patient
6 medication record systems.

7 (4) A pharmacy subject to this section shall comply with (~~board of~~
8 ~~pharmacy~~) commission rules regarding the provision of drug information
9 to the patient. Drug information may be contained in written form
10 setting forth directions for use and any additional information
11 necessary to assure the proper utilization of the medication
12 prescribed. A label bearing the expiration date of the prescription
13 must be affixed to each box, bottle, jar, tube, or other container of
14 a prescription that is dispensed in this state by a pharmacy subject to
15 this section.

16 (5) A pharmacy subject to this section shall not dispense
17 medication in a quantity greater than authorized by the prescriber.

18 (6) The license fee specified by the secretary, in accordance with
19 the provisions of RCW 43.70.250, shall not exceed the fee charged to a
20 pharmacy located in this state.

21 (7) The license requirements of this section apply to nonresident
22 pharmacies that ship, mail, or deliver controlled substances, legend
23 drugs, and devices into this state only under a prescription. The
24 (~~board of pharmacy~~) commission may grant an exemption from licensing
25 under this section upon application by an out-of-state pharmacy that
26 restricts its dispensing activity in Washington to isolated
27 transactions.

28 (8) Each nonresident pharmacy that ships, mails, or delivers legend
29 drugs or devices into this state shall designate a resident agent in
30 Washington for service of process. The designation of such an agent
31 does not indicate that the nonresident pharmacy is a resident of
32 Washington for tax purposes.

33 (9) The (~~board~~) commission shall attempt to develop a reciprocal
34 licensing agreement for licensure of nonresident pharmacies with Health
35 Canada or an applicable Canadian province. If the (~~board~~) commission
36 is unable to develop such an agreement, the (~~board~~) commission shall
37 develop a process to license participating Canadian nonresident
38 pharmacies through on-site inspection and certification.

1 **Sec. 23.** RCW 18.64.390 and 1991 c 87 s 5 are each amended to read
2 as follows:

3 (1) The ((~~board~~)) commission may deny, revoke, or suspend a
4 nonresident pharmacy license or impose a fine not to exceed one
5 thousand dollars per violation for failure to comply with any
6 requirement of RCW 18.64.350 through 18.64.400.

7 (2) The ((~~board~~)) commission may deny, revoke, or suspend a
8 nonresident pharmacy license or impose a fine not to exceed one
9 thousand dollars per violation for conduct that causes serious bodily
10 or psychological injury to a resident of this state if the secretary
11 has referred the matter to the regulatory or licensing agency in the
12 state in which the pharmacy is located and that regulatory or licensing
13 agency fails to initiate an investigation within forty-five days of the
14 referral under this subsection or fails to make a determination on the
15 referral.

16 **Sec. 24.** RCW 18.64.410 and 1991 c 87 s 11 are each amended to read
17 as follows:

18 The ((~~board~~)) commission may adopt rules to implement the
19 provisions of RCW 18.64.350 through 18.64.400 and 18.64.420.

20 **Sec. 25.** RCW 18.64.420 and 2005 c 274 s 226 are each amended to
21 read as follows:

22 All records, reports, and information obtained by the department
23 from or on behalf of an entity licensed under chapter 48.20, 48.21,
24 48.44, or 48.46 RCW shall be confidential and exempt from inspection
25 and copying under chapter 42.56 RCW. Nothing in this section restricts
26 the investigation or the proceedings of the ((~~board~~)) commission or the
27 department so long as the ((~~board~~)) commission and the department
28 comply with the provisions of chapter 42.56 RCW. Nothing in this
29 section or in chapter 42.56 RCW shall restrict the ((~~board~~)) commission
30 or the department from complying with any mandatory reporting
31 requirements that exist or may exist under federal law, nor shall the
32 ((~~board~~)) commission or the department be restricted from providing to
33 any person the name of any nonresident pharmacy that is or has been
34 licensed or disciplined under RCW 18.64.350 through 18.64.400.

1 (1) By September 1, 2005, the ((~~board of pharmacy~~)) commission
2 shall, in consultation with the department and the health care
3 authority, submit a waiver request to the federal food and drug
4 administration that authorizes the importation of prescription drugs
5 from Canada.

6 (2) Upon approval of the federal waiver allowing for the
7 importation of prescription drugs from Canada, the ((~~board~~))
8 commission, in consultation with the department and the health care
9 authority, shall license Canadian pharmacies that provide services to
10 Washington residents under RCW 18.64.350 and 18.64.360.

11 **Sec. 29.** RCW 18.64.490 and 2005 c 293 s 2 are each amended to read
12 as follows:

13 (1) By September 1, 2005, the ((~~board~~)) commission shall, in
14 consultation with the department and the health care authority, submit
15 a waiver request to the federal food and drug administration that will
16 authorize the state of Washington to license Canadian, United Kingdom,
17 Irish, and other nondomestic prescription drug wholesalers under RCW
18 18.64.046, thereby providing retail pharmacies licensed in Washington
19 state the opportunity to purchase prescription drugs from approved
20 wholesalers and pass those savings on to consumers. The waiver shall
21 provide that:

22 (a) Canadian, United Kingdom, Irish, and other nondomestic
23 prescription drug wholesalers meet the requirements of RCW 18.64.046
24 and any rules adopted by the ((~~board~~)) commission to implement those
25 requirements;

26 (b) The ((~~board~~)) commission must ensure the integrity of the
27 prescription drug products being distributed by:

28 (i) Requiring that prescription drugs purchased from Canadian,
29 United Kingdom, Irish, and other nondomestic wholesalers originate only
30 from approved manufacturing locations;

31 (ii) Routinely testing prescription drugs purchased from Canadian,
32 United Kingdom, Irish, and other nondomestic wholesalers for safety;

33 (iii) Establishing safe labeling, tracking, and shipping procedures
34 for prescription drugs purchased from Canadian, United Kingdom, Irish,
35 and other nondomestic wholesalers; and

36 (iv) Closely monitoring compliance with RCW 18.64.046 and any rules
37 adopted to implement the waiver;

1 (c) The prescription drugs purchased from Canadian, United Kingdom,
2 Irish, and other nondomestic wholesalers must be limited to those that
3 are not temperature sensitive or infused and for which potential
4 savings to consumers can be demonstrated and those available through
5 purchase by individuals only at licensed retail pharmacies;

6 (d) To ensure that the program benefits those consumers without
7 insurance coverage for prescription drugs who are most in need of price
8 relief, prescription drug purchases from pharmacies under the waiver
9 will be limited to those not eligible for reimbursement by third party
10 insurance coverage, whether public or private, for the particular drug
11 being purchased; and

12 (e) Savings associated with purchasing prescription drugs from
13 Canadian, United Kingdom, Irish, and other nondomestic wholesalers will
14 be passed on to consumers.

15 (2) Upon approval of the federal waiver submitted in accordance
16 with subsection (1) of this section, the ((~~board~~)) commission, in
17 consultation with the department and the health care authority, shall
18 submit a detailed implementation plan to the governor and appropriate
19 committees of the legislature that details the mechanisms that the
20 ((~~board~~)) commission will use to implement each component of the waiver
21 under subsection (1) of this section.

22 (3) The ((~~board~~)) commission shall adopt rules as necessary to
23 implement chapter 293, Laws of 2005.

24 **Sec. 30.** RCW 18.64.500 and 2009 c 328 s 1 are each amended to read
25 as follows:

26 (1) Effective July 1, 2010, every prescription written in this
27 state by a licensed practitioner must be written on a tamper-resistant
28 prescription pad or paper approved by the ((~~board~~)) commission.

29 (2) A pharmacist may not fill a written prescription from a
30 licensed practitioner unless it is written on an approved tamper-
31 resistant prescription pad or paper, except that a pharmacist may
32 provide emergency supplies in accordance with the ((~~board~~)) commission
33 and other insurance contract requirements.

34 (3) If a hard copy of an electronic prescription is given directly
35 to the patient, the manually signed hard copy prescription must be on
36 approved tamper-resistant paper that meets the requirements of this
37 section.

1 (4) For the purposes of this section, "tamper-resistant
2 prescription pads or paper" means a prescription pad or paper that has
3 been approved by the ((board)) commission for use and contains the
4 following characteristics:

5 (a) One or more industry-recognized features designed to prevent
6 unauthorized copying of a completed or blank prescription form;

7 (b) One or more industry-recognized features designed to prevent
8 the erasure or modification of information written on the prescription
9 form by the practitioner; and

10 (c) One or more industry-recognized features designed to prevent
11 the use of counterfeit prescription forms.

12 (5) Practitioners shall employ reasonable safeguards to assure
13 against theft or unauthorized use of prescriptions.

14 (6) All vendors must have their tamper-resistant prescription pads
15 or paper approved by the ((board)) commission prior to the marketing or
16 sale of pads or paper in Washington state.

17 (7) The ((board)) commission shall create a seal of approval that
18 confirms that a pad or paper contains all three industry-recognized
19 characteristics required by this section. The seal must be affixed to
20 all prescription pads or paper used in this state.

21 (8) The ((board)) commission may adopt rules necessary for the
22 administration of chapter 328, Laws of 2009.

23 (9) The tamper-resistant prescription pad or paper requirements in
24 this section shall not apply to:

25 (a) Prescriptions that are transmitted to the pharmacy by
26 telephone, facsimile, or electronic means; or

27 (b) Prescriptions written for inpatients of a hospital, outpatients
28 of a hospital, residents of a nursing home, inpatients or residents of
29 a mental health facility, or individuals incarcerated in a local,
30 state, or federal correction facility, when the health care
31 practitioner authorized to write prescriptions writes the order into
32 the patient's medical or clinical record, the order is given directly
33 to the pharmacy, and the patient never has the opportunity to handle
34 the written order.

35 (10) All acts related to the prescribing, dispensing, and records
36 maintenance of all prescriptions shall be in compliance with applicable
37 federal and state laws, rules, and regulations.

1 **Sec. 31.** RCW 18.64.510 and 2009 c 411 s 2 are each amended to read
2 as follows:

3 Nothing in this chapter or in any provision of law shall be
4 interpreted to invest the (~~board~~) commission with the authority to
5 regulate or establish standards regarding a jail as defined in RCW
6 70.48.020 that does not operate, in whole or in part, a pharmacy or a
7 correctional pharmacy. This section does not limit the (~~board's~~)
8 commission's authority to regulate a pharmacist that has entered into
9 an agreement with a jail for the provision of pharmaceutical services.

10 **Sec. 32.** RCW 18.64A.010 and 1997 c 417 s 1 are each amended to
11 read as follows:

12 Terms used in this chapter shall have the meaning set forth in this
13 section unless the context clearly indicates otherwise:

14 (1) (~~"Board" means the state board of pharmacy;~~) "Commission"
15 means the pharmacy quality assurance commission;

16 (2) "Department" means the department of health;

17 (3) "Pharmacist" means a person duly licensed by the (~~state board~~
18 ~~of pharmacy~~) commission to engage in the practice of pharmacy;

19 (4) "Pharmacy" means every place properly licensed by the (~~board~~
20 ~~of pharmacy~~) commission where the practice of pharmacy is conducted;

21 (5) "Pharmacy ancillary personnel" means pharmacy technicians and
22 pharmacy assistants;

23 (6) "Pharmacy technician" means:

24 (a) A person who is enrolled in, or who has satisfactorily
25 completed, a (~~board~~) commission-approved training program designed to
26 prepare persons to perform nondiscretionary functions associated with
27 the practice of pharmacy; or

28 (b) A person who is a graduate with a degree in pharmacy or
29 medicine of a foreign school, university, or college recognized by the
30 (~~board~~) commission;

31 (7) "Pharmacy assistant" means a person registered by the (~~board~~)
32 commission to perform limited functions in the pharmacy;

33 (8) "Practice of pharmacy" means the definition given in RCW
34 18.64.011;

35 (9) "Secretary" means the secretary of health or the secretary's
36 designee.

1 **Sec. 33.** RCW 18.64A.020 and 2011 c 71 s 1 are each amended to read
2 as follows:

3 (1)(a) The ((~~board~~)) commission shall adopt, in accordance with
4 chapter 34.05 RCW, rules fixing the classification and qualifications
5 and the educational and training requirements for persons who may be
6 employed as pharmacy technicians or who may be enrolled in any pharmacy
7 technician training program. Such rules shall provide that:

8 (i) Licensed pharmacists shall supervise the training of pharmacy
9 technicians;

10 (ii) Training programs shall assure the competence of pharmacy
11 technicians to aid and assist pharmacy operations. Training programs
12 shall consist of instruction and/or practical training; and

13 (iii) Pharmacy technicians shall complete continuing education
14 requirements established in rule by the ((~~board~~)) commission.

15 (b) Such rules may include successful completion of examinations
16 for applicants for pharmacy technician certificates. If such
17 examination rules are adopted, the ((~~board~~)) commission shall prepare
18 or determine the nature of, and supervise the grading of the
19 examinations. The ((~~board~~)) commission may approve an examination
20 prepared or administered by a private testing agency or association of
21 licensing authorities.

22 (2) The ((~~board~~)) commission may disapprove or revoke approval of
23 any training program for failure to conform to ((~~board~~)) commission
24 rules. In the case of the disapproval or revocation of approval of a
25 training program by the ((~~board~~)) commission, a hearing shall be
26 conducted in accordance with RCW 18.64.160, and appeal may be taken in
27 accordance with the administrative procedure act, chapter 34.05 RCW.

28 **Sec. 34.** RCW 18.64A.025 and 2011 c 32 s 5 are each amended to read
29 as follows:

30 An applicant with military training or experience satisfies the
31 training and experience requirements of this chapter unless the
32 ((~~board~~)) commission determines that the military training or
33 experience is not substantially equivalent to the standards of this
34 state.

35 **Sec. 35.** RCW 18.64A.030 and 1997 c 417 s 3 are each amended to
36 read as follows:

1 The ((~~board~~)) commission shall adopt, in accordance with chapter
2 34.05 RCW, rules governing the extent to which pharmacy ancillary
3 personnel may perform services associated with the practice of
4 pharmacy. These rules shall provide for the certification of pharmacy
5 technicians by the department at a fee determined by the secretary
6 under RCW 43.70.250:

7 (1) "Pharmacy technicians" may assist in performing, under the
8 supervision and control of a licensed pharmacist, manipulative,
9 nondiscretionary functions associated with the practice of pharmacy and
10 other such duties and subject to such restrictions as the ((~~board~~))
11 commission may by rule adopt.

12 (2) "Pharmacy assistants" may perform, under the supervision of a
13 licensed pharmacist, duties including but not limited to, typing of
14 prescription labels, filing, refiling, bookkeeping, pricing, stocking,
15 delivery, nonprofessional phone inquiries, and documentation of third
16 party reimbursements and other such duties and subject to such
17 restrictions as the ((~~board~~)) commission may by rule adopt.

18 **Sec. 36.** RCW 18.64A.040 and 1997 c 417 s 4 are each amended to
19 read as follows:

20 (1) Pharmacy ancillary personnel shall practice pharmacy in this
21 state only after authorization by the ((~~board~~)) commission and only to
22 the extent permitted by the ((~~board~~)) commission in accordance with
23 this chapter.

24 (2) A pharmacist shall be assisted by pharmacy ancillary personnel
25 in the practice of pharmacy in this state only after authorization by
26 the ((~~board~~)) commission and only to the extent permitted by the
27 ((~~board~~)) commission in accordance with this chapter: PROVIDED, That
28 no pharmacist may supervise more than one pharmacy technician:
29 PROVIDED FURTHER, That in pharmacies operating in connection with
30 facilities licensed pursuant to chapter 70.41, 71.12, 71A.20, or 74.42
31 RCW, whether or not situated within the said facility which shall be
32 physically separated from any area of a pharmacy where dispensing of
33 prescriptions to the general public occurs, the ratio of pharmacists to
34 pharmacy technicians shall be as follows: In the preparation of
35 medicine or other materials used by patients within the facility, one
36 pharmacist supervising no more than three pharmacy technicians; in the

1 preparation of medicine or other materials dispensed to persons not
2 patients within the facility, one pharmacist supervising not more than
3 one pharmacy technician.

4 (3) The ((~~board~~)) commission may by rule modify the standard ratios
5 set out in subsection (2) of this section governing the utilization of
6 pharmacy technicians by pharmacies and pharmacists. Should a pharmacy
7 desire to use more pharmacy technicians than the standard ratios, the
8 pharmacy must submit to the ((~~board~~)) commission a pharmacy services
9 plan for approval.

10 (a) The pharmacy services plan shall include, at a minimum, the
11 following information: Pharmacy design and equipment, information
12 systems, workflow, and quality assurance procedures. In addition, the
13 pharmacy services plan shall demonstrate how it facilitates the
14 provision of pharmaceutical care by the pharmacy.

15 (b) Prior to approval of a pharmacy services plan, the ((~~board~~))
16 commission may require additional information to ensure appropriate
17 oversight of pharmacy ancillary personnel.

18 (c) The ((~~board~~)) commission may give conditional approval for
19 pilot or demonstration projects.

20 (d) Variance from the approved pharmacy services plan is grounds
21 for disciplinary action under RCW 18.64A.050.

22 **Sec. 37.** RCW 18.64A.050 and 1997 c 417 s 5 are each amended to
23 read as follows:

24 In addition to the grounds under RCW 18.130.170 and 18.130.180, the
25 ((~~board of pharmacy~~)) commission may take disciplinary action against
26 the certificate of any pharmacy technician upon proof that:

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

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

33 (3) He or she has exhibited gross incompetency in the performance
34 of his or her duties;

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

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

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

5 **Sec. 38.** RCW 18.64A.060 and 1997 c 417 s 6 are each amended to
6 read as follows:

7 No pharmacy licensed in this state shall utilize the services of
8 pharmacy ancillary personnel without approval of the ((board))
9 commission.

10 Any pharmacy licensed in this state may apply to the ((board))
11 commission for permission to use the services of pharmacy ancillary
12 personnel. The application shall be accompanied by a fee and shall
13 comply with administrative procedures and administrative requirements
14 set pursuant to RCW 43.70.250 and 43.70.280, shall detail the manner
15 and extent to which the pharmacy ancillary personnel would be used and
16 supervised, and shall provide other information in such form as the
17 secretary may require.

18 The ((board)) commission may approve or reject such applications.
19 In addition, the ((board)) commission may modify the proposed
20 utilization of pharmacy ancillary personnel and approve the application
21 as modified. Whenever it appears to the ((board)) commission that
22 pharmacy ancillary personnel are being utilized in a manner
23 inconsistent with the approval granted, the ((board)) commission may
24 withdraw such approval. In the event a hearing is requested upon the
25 rejection of an application, or upon the withdrawal of approval, a
26 hearing shall be conducted in accordance with chapter 18.64 RCW, as now
27 or hereafter amended, and appeal may be taken in accordance with the
28 Administrative Procedure Act, chapter 34.05 RCW.

29 **Sec. 39.** RCW 18.64A.070 and 1997 c 417 s 7 are each amended to
30 read as follows:

31 (1) Persons presently assisting a pharmacist by performing the
32 functions of a pharmacy technician may continue to do so under the
33 supervision of a licensed pharmacist: PROVIDED, That within eighteen
34 months after May 28, 1977, such persons shall be in compliance with the
35 provisions of this chapter.

1 (2) Pharmacies presently employing persons to perform the functions
2 of a pharmacy technician may continue to do so while obtaining
3 ((~~board~~)) commission approval for the use of certified pharmacy
4 technicians: PROVIDED, That within eighteen months after May 28, 1977,
5 such pharmacies shall be in compliance with the provisions of this
6 chapter.

7 **Sec. 40.** RCW 18.64A.080 and 1997 c 417 s 8 are each amended to
8 read as follows:

9 A pharmacy or pharmacist which utilizes the services of pharmacy
10 ancillary personnel with approval by the ((~~board~~)) commission, is not
11 aiding and abetting an unlicensed person to practice pharmacy within
12 the meaning of chapter 18.64 RCW: PROVIDED, HOWEVER, That the pharmacy
13 or pharmacist shall retain responsibility for any act performed by
14 pharmacy ancillary personnel in the course of employment.

15 **Sec. 41.** RCW 18.92.012 and 1991 c 47 s 1 are each amended to read
16 as follows:

17 A veterinarian licensed under this chapter may dispense veterinary
18 legend drugs prescribed by other veterinarians licensed under this
19 chapter, so long as, during any year, the total drugs so dispensed do
20 not constitute more than five percent of the total dosage units of
21 legend drugs the veterinarian dispenses and the veterinarian maintains
22 records of his or her dispensing activities consistent with the
23 requirements of chapters 18.64, 69.04, 69.41, and 69.50 RCW. For
24 purposes of this section, a "veterinary legend drug" is a legend drug,
25 as defined in chapter 69.41 RCW, which is either: (1) Restricted to
26 use by licensed veterinarians by any law or regulation of the federal
27 government, or (2) designated by rule by the ((~~state board of~~
28 ~~pharmacy~~)) pharmacy quality assurance commission as being a legend drug
29 that one licensed veterinarian may dispense for another licensed
30 veterinarian under this section.

31 **Sec. 42.** RCW 18.92.013 and 2009 c 136 s 1 are each amended to read
32 as follows:

33 (1) A veterinarian legally prescribing drugs may delegate to a
34 registered veterinary medication clerk, while under the veterinarian's
35 direct supervision, certain nondiscretionary functions defined by the

1 board and used in the preparing of legend and nonlegend drugs (except
2 controlled substances as defined in or under chapter 69.50 RCW)
3 associated with the practice of veterinary medicine. A veterinarian
4 legally prescribing drugs may delegate to a licensed veterinary
5 technician, while under the veterinarian's indirect supervision,
6 certain nondiscretionary functions defined by the board and used in the
7 preparing of legend drugs, nonlegend drugs, and controlled substances
8 associated with the practice of veterinary medicine. Upon final
9 approval of the packaged prescription following a direct physical
10 inspection of the packaged prescription for proper formulation,
11 packaging, and labeling by the veterinarian, the veterinarian may
12 delegate the delivery of the prescription to a registered veterinary
13 medication clerk or licensed veterinary technician, while under the
14 veterinarian's indirect supervision. Dispensing of drugs by
15 veterinarians, licensed veterinary technicians, and registered
16 veterinary medication clerks shall meet the applicable requirements of
17 chapters 18.64, 69.40, 69.41, and 69.50 RCW and is subject to
18 inspection by the (~~board of pharmacy~~) pharmacy quality assurance
19 commission investigators.

20 (2) A licensed veterinary technician may administer legend drugs
21 under chapter 69.41 RCW and controlled substances under chapter 69.50
22 RCW under indirect supervision of a veterinarian.

23 (3) For the purposes of this section:

24 (a) "Direct supervision" means the veterinarian is on the premises
25 and is quickly and easily available; and

26 (b) "Indirect supervision" means the veterinarian is not on the
27 premises but has given written or oral instructions for the delegated
28 task.

29 **Sec. 43.** RCW 18.92.015 and 2007 c 235 s 1 are each amended to read
30 as follows:

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

33 (1) "Board" means the Washington state veterinary board of
34 governors.

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

36 (3) "Secretary" means the secretary of the department of health.

1 (4) "Veterinary medication clerk" means a person who has
2 satisfactorily completed a board-approved training program developed in
3 consultation with the (~~board of pharmacy~~) pharmacy quality assurance
4 commission and designed to prepare persons to perform certain
5 nondiscretionary functions defined by the board and used in the
6 dispensing of legend and nonlegend drugs (except controlled substances
7 as defined in or under chapter 69.50 RCW) associated with the practice
8 of veterinary medicine.

9 (5) "Veterinary technician" means a person who is licensed by the
10 board upon meeting the requirements of RCW 18.92.128.

11 **Sec. 44.** RCW 18.130.040 and 2012 c 208 s 10, 2012 c 153 s 16, 2012
12 c 137 s 19, and 2012 c 23 s 6 are each reenacted and amended to read as
13 follows:

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

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

21 (i) Dispensing opticians licensed and designated apprentices under
22 chapter 18.34 RCW;

23 (ii) Midwives licensed under chapter 18.50 RCW;

24 (iii) Ocularists licensed under chapter 18.55 RCW;

25 (iv) Massage practitioners and businesses licensed under chapter
26 18.108 RCW;

27 (v) Dental hygienists licensed under chapter 18.29 RCW;

28 (vi) East Asian medicine practitioners licensed under chapter 18.06
29 RCW;

30 (vii) Radiologic technologists certified and X-ray technicians
31 registered under chapter 18.84 RCW;

32 (viii) Respiratory care practitioners licensed under chapter 18.89
33 RCW;

34 (ix) Hypnotherapists and agency affiliated counselors registered
35 and advisors and counselors certified under chapter 18.19 RCW;

36 (x) Persons licensed as mental health counselors, mental health
37 counselor associates, marriage and family therapists, marriage and

1 family therapist associates, social workers, social work associates--
2 advanced, and social work associates--independent clinical under
3 chapter 18.225 RCW;

4 (xi) Persons registered as nursing pool operators under chapter
5 18.52C RCW;

6 (xii) Nursing assistants registered or certified or medication
7 assistants endorsed under chapter 18.88A RCW;

8 (xiii) Health care assistants certified under chapter 18.135 RCW;

9 (xiv) Dietitians and nutritionists certified under chapter 18.138
10 RCW;

11 (xv) Chemical dependency professionals and chemical dependency
12 professional trainees certified under chapter 18.205 RCW;

13 (xvi) Sex offender treatment providers and certified affiliate sex
14 offender treatment providers certified under chapter 18.155 RCW;

15 (xvii) Persons licensed and certified under chapter 18.73 RCW or
16 RCW 18.71.205;

17 (xviii) Denturists licensed under chapter 18.30 RCW;

18 (xix) Orthotists and prosthetists licensed under chapter 18.200
19 RCW;

20 (xx) Surgical technologists registered under chapter 18.215 RCW;

21 (xxi) Recreational therapists under chapter 18.230 RCW;

22 (xxii) Animal massage practitioners certified under chapter 18.240
23 RCW;

24 (xxiii) Athletic trainers licensed under chapter 18.250 RCW;

25 (xxiv) Home care aides certified under chapter 18.88B RCW;

26 (xxv) Genetic counselors licensed under chapter 18.290 RCW; ((and))

27 (xxvi) Reflexologists certified under chapter 18.108 RCW; and

28 (xxvii) Medical assistants-certified, medical assistants-
29 hemodialysis technician, medical assistants-phlebotomist, and medical
30 assistants-registered certified and registered under chapter 18.360
31 RCW.

32 (b) The boards and commissions having authority under this chapter
33 are as follows:

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

36 (ii) The chiropractic quality assurance commission as established
37 in chapter 18.25 RCW;

1 (iii) The dental quality assurance commission as established in
2 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW,
3 licenses and registrations issued under chapter 18.260 RCW, and
4 certifications issued under chapter 18.350 RCW;

5 (iv) The board of hearing and speech as established in chapter
6 18.35 RCW;

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

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

11 (vii) The board of osteopathic medicine and surgery as established
12 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
13 18.57A RCW;

14 (viii) The (~~board of pharmacy~~) pharmacy quality assurance
15 commission as established in chapter 18.64 RCW governing licenses
16 issued under chapters 18.64 and 18.64A RCW;

17 (ix) The medical quality assurance commission as established in
18 chapter 18.71 RCW governing licenses and registrations issued under
19 chapters 18.71 and 18.71A RCW;

20 (x) The board of physical therapy as established in chapter 18.74
21 RCW;

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

24 (xii) The nursing care quality assurance commission as established
25 in chapter 18.79 RCW governing licenses and registrations issued under
26 that chapter;

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

29 (xiv) The veterinary board of governors as established in chapter
30 18.92 RCW; and

31 (xv) The board of naturopathy established in chapter 18.36A RCW.

32 (3) In addition to the authority to discipline license holders, the
33 disciplining authority has the authority to grant or deny licenses.
34 The disciplining authority may also grant a license subject to
35 conditions.

36 (4) All disciplining authorities shall adopt procedures to ensure
37 substantially consistent application of this chapter, the uniform

1 disciplinary act, among the disciplining authorities listed in
2 subsection (2) of this section.

3 **Sec. 45.** RCW 18.130.040 and 2012 c 208 s 10, 2012 c 153 s 17, 2012
4 c 137 s 19, and 2012 c 23 s 6 are each reenacted and amended to read as
5 follows:

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

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

13 (i) Dispensing opticians licensed and designated apprentices under
14 chapter 18.34 RCW;

15 (ii) Midwives licensed under chapter 18.50 RCW;

16 (iii) Ocularists licensed under chapter 18.55 RCW;

17 (iv) Massage practitioners and businesses licensed under chapter
18 18.108 RCW;

19 (v) Dental hygienists licensed under chapter 18.29 RCW;

20 (vi) East Asian medicine practitioners licensed under chapter 18.06
21 RCW;

22 (vii) Radiologic technologists certified and X-ray technicians
23 registered under chapter 18.84 RCW;

24 (viii) Respiratory care practitioners licensed under chapter 18.89
25 RCW;

26 (ix) Hypnotherapists and agency affiliated counselors registered
27 and advisors and counselors certified under chapter 18.19 RCW;

28 (x) Persons licensed as mental health counselors, mental health
29 counselor associates, marriage and family therapists, marriage and
30 family therapist associates, social workers, social work associates--
31 advanced, and social work associates--independent clinical under
32 chapter 18.225 RCW;

33 (xi) Persons registered as nursing pool operators under chapter
34 18.52C RCW;

35 (xii) Nursing assistants registered or certified or medication
36 assistants endorsed under chapter 18.88A RCW;

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

3 (xiv) Chemical dependency professionals and chemical dependency
4 professional trainees certified under chapter 18.205 RCW;

5 (xv) Sex offender treatment providers and certified affiliate sex
6 offender treatment providers certified under chapter 18.155 RCW;

7 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
8 18.71.205;

9 (xvii) Denturists licensed under chapter 18.30 RCW;

10 (xviii) Orthotists and prosthetists licensed under chapter 18.200
11 RCW;

12 (xix) Surgical technologists registered under chapter 18.215 RCW;

13 (xx) Recreational therapists under chapter 18.230 RCW;

14 (xxi) Animal massage practitioners certified under chapter 18.240
15 RCW;

16 (xxii) Athletic trainers licensed under chapter 18.250 RCW;

17 (xxiii) Home care aides certified under chapter 18.88B RCW;

18 (xxiv) Genetic counselors licensed under chapter 18.290 RCW;

19 ((and))

20 (xxv) Reflexologists certified under chapter 18.108 RCW; and

21 (xxvi) Medical assistants-certified, medical assistants-
22 hemodialysis technician, medical assistants-phlebotomist, and medical
23 assistants-registered certified and registered under chapter 18.360
24 RCW.

25 (b) The boards and commissions having authority under this chapter
26 are as follows:

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

29 (ii) The chiropractic quality assurance commission as established
30 in chapter 18.25 RCW;

31 (iii) The dental quality assurance commission as established in
32 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW,
33 licenses and registrations issued under chapter 18.260 RCW, and
34 certifications issued under chapter 18.350 RCW;

35 (iv) The board of hearing and speech as established in chapter
36 18.35 RCW;

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

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

3 (vii) The board of osteopathic medicine and surgery as established
4 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
5 18.57A RCW;

6 (viii) The (~~board of pharmacy~~) pharmacy quality assurance
7 commission as established in chapter 18.64 RCW governing licenses
8 issued under chapters 18.64 and 18.64A RCW;

9 (ix) The medical quality assurance commission as established in
10 chapter 18.71 RCW governing licenses and registrations issued under
11 chapters 18.71 and 18.71A RCW;

12 (x) The board of physical therapy as established in chapter 18.74
13 RCW;

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

16 (xii) The nursing care quality assurance commission as established
17 in chapter 18.79 RCW governing licenses and registrations issued under
18 that chapter;

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

21 (xiv) The veterinary board of governors as established in chapter
22 18.92 RCW; and

23 (xv) The board of naturopathy established in chapter 18.36A RCW.

24 (3) In addition to the authority to discipline license holders, the
25 disciplining authority has the authority to grant or deny licenses.
26 The disciplining authority may also grant a license subject to
27 conditions.

28 (4) All disciplining authorities shall adopt procedures to ensure
29 substantially consistent application of this chapter, the uniform
30 disciplinary act, among the disciplining authorities listed in
31 subsection (2) of this section.

32 **Sec. 46.** RCW 28B.115.020 and 2011 1st sp.s. c 11 s 204 are each
33 reenacted and amended to read as follows:

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

36 (1) "Credentialed health care profession" means a health care
37 profession regulated by a disciplining authority in the state of

1 Washington under RCW 18.130.040 or by the (~~state board of pharmacy~~)
2 pharmacy quality assurance commission under chapter 18.64 RCW and
3 designated by the department in RCW 28B.115.070 as a profession having
4 shortages of credentialed health care professionals in the state.

5 (2) "Credentialed health care professional" means a person
6 regulated by a disciplining authority in the state of Washington to
7 practice a health care profession under RCW 18.130.040 or by the
8 (~~state board of pharmacy~~) pharmacy quality assurance commission under
9 chapter 18.64 RCW.

10 (3) "Department" means the state department of health.

11 (4) "Eligible education and training programs" means education and
12 training programs approved by the department that lead to eligibility
13 for a credential as a credentialed health care professional.

14 (5) "Eligible expenses" means reasonable expenses associated with
15 the costs of acquiring an education such as tuition, books, equipment,
16 fees, room and board, and other expenses determined by the office.

17 (6) "Eligible student" means a student who has been accepted into
18 an eligible education or training program and has a declared intention
19 to serve in a health professional shortage area upon completion of the
20 education or training program.

21 (7) "Forgiven" or "to forgive" or "forgiveness" means to render
22 health care services in a health professional shortage area in the
23 state of Washington in lieu of monetary repayment.

24 (8) "Health professional shortage areas" means those areas where
25 credentialed health care professionals are in short supply as a result
26 of geographic maldistribution or as the result of a short supply of
27 credentialed health care professionals in specialty health care areas
28 and where vacancies exist in serious numbers that jeopardize patient
29 care and pose a threat to the public health and safety. The department
30 shall determine health professional shortage areas as provided for in
31 RCW 28B.115.070. In making health professional shortage area
32 designations in the state the department may be guided by applicable
33 federal standards for "health manpower shortage areas," and "medically
34 underserved areas," and "medically underserved populations."

35 (9) "Loan repayment" means a loan that is paid in full or in part
36 if the participant renders health care services in a health
37 professional shortage area as defined by the department.

1 (10) "Nonshortage rural area" means a nonurban area of the state of
2 Washington that has not been designated as a rural physician shortage
3 area. The department shall identify the nonshortage rural areas of the
4 state.

5 (11) "Office" means the office of student financial assistance.

6 (12) "Participant" means a credentialed health care professional
7 who has received a loan repayment award and has commenced practice as
8 a credentialed health care provider in a designated health professional
9 shortage area or an eligible student who has received a scholarship
10 under this program.

11 (13) "Program" means the health professional loan repayment and
12 scholarship program.

13 (14) "Required service obligation" means an obligation by the
14 participant to provide health care services in a health professional
15 shortage area for a period to be established as provided for in this
16 chapter.

17 (15) "Rural physician shortage area" means rural geographic areas
18 where primary care physicians are in short supply as a result of
19 geographic maldistributions and where their limited numbers jeopardize
20 patient care and pose a threat to public health and safety. The
21 department shall designate rural physician shortage areas.

22 (16) "Satisfied" means paid-in-full.

23 (17) "Scholarship" means a loan that is forgiven in whole or in
24 part if the recipient renders health care services in a health
25 professional shortage area.

26 (18) "Sponsoring community" means a rural hospital or hospitals as
27 authorized in chapter 70.41 RCW, a rural health care facility or
28 facilities as authorized in chapter 70.175 RCW, or a city or county
29 government or governments.

30 **Sec. 47.** RCW 42.56.360 and 2010 c 128 s 3 and 2010 c 52 s 6 are
31 each reenacted and amended to read as follows:

32 (1) The following health care information is exempt from disclosure
33 under this chapter:

34 (a) Information obtained by the (~~board of pharmacy~~) pharmacy
35 quality assurance commission as provided in RCW 69.45.090;

36 (b) Information obtained by the (~~board of pharmacy~~) pharmacy

1 quality assurance commission or the department of health and its
2 representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

3 (c) Information and documents created specifically for, and
4 collected and maintained by a quality improvement committee under RCW
5 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee
6 under RCW 4.24.250, or by a quality assurance committee pursuant to RCW
7 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056,
8 for reporting of health care-associated infections under RCW 43.70.056,
9 a notification of an incident under RCW 70.56.040(5), and reports
10 regarding adverse events under RCW 70.56.020(2)(b), regardless of which
11 agency is in possession of the information and documents;

12 (d)(i) Proprietary financial and commercial information that the
13 submitting entity, with review by the department of health,
14 specifically identifies at the time it is submitted and that is
15 provided to or obtained by the department of health in connection with
16 an application for, or the supervision of, an antitrust exemption
17 sought by the submitting entity under RCW 43.72.310;

18 (ii) If a request for such information is received, the submitting
19 entity must be notified of the request. Within ten business days of
20 receipt of the notice, the submitting entity shall provide a written
21 statement of the continuing need for confidentiality, which shall be
22 provided to the requester. Upon receipt of such notice, the department
23 of health shall continue to treat information designated under this
24 subsection (1)(d) as exempt from disclosure;

25 (iii) If the requester initiates an action to compel disclosure
26 under this chapter, the submitting entity must be joined as a party to
27 demonstrate the continuing need for confidentiality;

28 (e) Records of the entity obtained in an action under RCW 18.71.300
29 through 18.71.340;

30 (f) Complaints filed under chapter 18.130 RCW after July 27, 1997,
31 to the extent provided in RCW 18.130.095(1);

32 (g) Information obtained by the department of health under chapter
33 70.225 RCW;

34 (h) Information collected by the department of health under chapter
35 70.245 RCW except as provided in RCW 70.245.150;

36 (i) Cardiac and stroke system performance data submitted to
37 national, state, or local data collection systems under RCW
38 70.168.150(2)(b); and

1 (j) All documents, including completed forms, received pursuant to
2 a wellness program under RCW 41.04.362, but not statistical reports
3 that do not identify an individual.

4 (2) Chapter 70.02 RCW applies to public inspection and copying of
5 health care information of patients.

6 (3)(a) Documents related to infant mortality reviews conducted
7 pursuant to RCW 70.05.170 are exempt from disclosure as provided for in
8 RCW 70.05.170(3).

9 (b)(i) If an agency provides copies of public records to another
10 agency that are exempt from public disclosure under this subsection
11 (3), those records remain exempt to the same extent the records were
12 exempt in the possession of the originating entity.

13 (ii) For notice purposes only, agencies providing exempt records
14 under this subsection (3) to other agencies may mark any exempt records
15 as "exempt" so that the receiving agency is aware of the exemption,
16 however whether or not a record is marked exempt does not affect
17 whether the record is actually exempt from disclosure.

18 **Sec. 48.** RCW 51.36.010 and 2011 c 6 s 1 are each amended to read
19 as follows:

20 (1) The legislature finds that high quality medical treatment and
21 adherence to occupational health best practices can prevent disability
22 and reduce loss of family income for workers, and lower labor and
23 insurance costs for employers. Injured workers deserve high quality
24 medical care in accordance with current health care best practices. To
25 this end, the department shall establish minimum standards for
26 providers who treat workers from both state fund and self-insured
27 employers. The department shall establish a health care provider
28 network to treat injured workers, and shall accept providers into the
29 network who meet those minimum standards. The department shall convene
30 an advisory group made up of representatives from or designees of the
31 workers' compensation advisory committee and the industrial insurance
32 medical and chiropractic advisory committees to consider and advise the
33 department related to implementation of this section, including
34 development of best practices treatment guidelines for providers in the
35 network. The department shall also seek the input of various health
36 care provider groups and associations concerning the network's
37 implementation. Network providers must be required to follow the

1 department's evidence-based coverage decisions and treatment
2 guidelines, policies, and must be expected to follow other national
3 treatment guidelines appropriate for their patient. The department, in
4 collaboration with the advisory group, shall also establish additional
5 best practice standards for providers to qualify for a second tier
6 within the network, based on demonstrated use of occupational health
7 best practices. This second tier is separate from and in addition to
8 the centers for occupational health and education established under
9 subsection (5) of this section.

10 (2)(a) Upon the occurrence of any injury to a worker entitled to
11 compensation under the provisions of this title, he or she shall
12 receive proper and necessary medical and surgical services at the hands
13 of a physician or licensed advanced registered nurse practitioner of
14 his or her own choice, if conveniently located, except as provided in
15 (b) of this subsection, and proper and necessary hospital care and
16 services during the period of his or her disability from such injury.

17 (b) Once the provider network is established in the worker's
18 geographic area, an injured worker may receive care from a nonnetwork
19 provider only for an initial office or emergency room visit. However,
20 the department or self-insurer may limit reimbursement to the
21 department's standard fee for the services. The provider must comply
22 with all applicable billing policies and must accept the department's
23 fee schedule as payment in full.

24 (c) The department, in collaboration with the advisory group, shall
25 adopt policies for the development, credentialing, accreditation, and
26 continued oversight of a network of health care providers approved to
27 treat injured workers. Health care providers shall apply to the
28 network by completing the department's provider application which shall
29 have the force of a contract with the department to treat injured
30 workers. The advisory group shall recommend minimum network standards
31 for the department to approve a provider's application, to remove a
32 provider from the network, or to require peer review such as, but not
33 limited to:

34 (i) Current malpractice insurance coverage exceeding a dollar
35 amount threshold, number, or seriousness of malpractice suits over a
36 specific time frame;

37 (ii) Previous malpractice judgments or settlements that do not

1 exceed a dollar amount threshold recommended by the advisory group, or
2 a specific number or seriousness of malpractice suits over a specific
3 time frame;

4 (iii) No licensing or disciplinary action in any jurisdiction or
5 loss of treating or admitting privileges by any board, commission,
6 agency, public or private health care payer, or hospital;

7 (iv) For some specialties such as surgeons, privileges in at least
8 one hospital;

9 (v) Whether the provider has been credentialed by another health
10 plan that follows national quality assurance guidelines; and

11 (vi) Alternative criteria for providers that are not credentialed
12 by another health plan.

13 The department shall develop alternative criteria for providers
14 that are not credentialed by another health plan or as needed to
15 address access to care concerns in certain regions.

16 (d) Network provider contracts will automatically renew at the end
17 of the contract period unless the department provides written notice of
18 changes in contract provisions or the department or provider provides
19 written notice of contract termination. The industrial insurance
20 medical advisory committee shall develop criteria for removal of a
21 provider from the network to be presented to the department and
22 advisory group for consideration in the development of contract terms.

23 (e) In order to monitor quality of care and assure efficient
24 management of the provider network, the department shall establish
25 additional criteria and terms for network participation including, but
26 not limited to, requiring compliance with administrative and billing
27 policies.

28 (f) The advisory group shall recommend best practices standards to
29 the department to use in determining second tier network providers.
30 The department shall develop and implement financial and nonfinancial
31 incentives for network providers who qualify for the second tier. The
32 department is authorized to certify and decertify second tier
33 providers.

34 (3) The department shall work with self-insurers and the department
35 utilization review provider to implement utilization review for the
36 self-insured community to ensure consistent quality, cost-effective
37 care for all injured workers and employers, and to reduce
38 administrative burden for providers.

1 (4) The department for state fund claims shall pay, in accordance
2 with the department's fee schedule, for any alleged injury for which a
3 worker files a claim, any initial prescription drugs provided in
4 relation to that initial visit, without regard to whether the worker's
5 claim for benefits is allowed. In all accepted claims, treatment shall
6 be limited in point of duration as follows:

7 In the case of permanent partial disability, not to extend beyond
8 the date when compensation shall be awarded him or her, except when the
9 worker returned to work before permanent partial disability award is
10 made, in such case not to extend beyond the time when monthly
11 allowances to him or her shall cease; in case of temporary disability
12 not to extend beyond the time when monthly allowances to him or her
13 shall cease: PROVIDED, That after any injured worker has returned to
14 his or her work his or her medical and surgical treatment may be
15 continued if, and so long as, such continuation is deemed necessary by
16 the supervisor of industrial insurance to be necessary to his or her
17 more complete recovery; in case of a permanent total disability not to
18 extend beyond the date on which a lump sum settlement is made with him
19 or her or he or she is placed upon the permanent pension roll:
20 PROVIDED, HOWEVER, That the supervisor of industrial insurance, solely
21 in his or her discretion, may authorize continued medical and surgical
22 treatment for conditions previously accepted by the department when
23 such medical and surgical treatment is deemed necessary by the
24 supervisor of industrial insurance to protect such worker's life or
25 provide for the administration of medical and therapeutic measures
26 including payment of prescription medications, but not including those
27 controlled substances currently scheduled by the (~~state board of~~
28 ~~pharmacy~~) pharmacy quality assurance commission as Schedule I, II,
29 III, or IV substances under chapter 69.50 RCW, which are necessary to
30 alleviate continuing pain which results from the industrial injury. In
31 order to authorize such continued treatment the written order of the
32 supervisor of industrial insurance issued in advance of the
33 continuation shall be necessary.

34 The supervisor of industrial insurance, the supervisor's designee,
35 or a self-insurer, in his or her sole discretion, may authorize
36 inoculation or other immunological treatment in cases in which a work-
37 related activity has resulted in probable exposure of the worker to a
38 potential infectious occupational disease. Authorization of such

1 treatment does not bind the department or self-insurer in any
2 adjudication of a claim by the same worker or the worker's beneficiary
3 for an occupational disease.

4 (5)(a) The legislature finds that the department and its business
5 and labor partners have collaborated in establishing centers for
6 occupational health and education to promote best practices and prevent
7 preventable disability by focusing additional provider-based resources
8 during the first twelve weeks following an injury. The centers for
9 occupational health and education represent innovative accountable care
10 systems in an early stage of development consistent with national
11 health care reform efforts. Many Washington workers do not yet have
12 access to these innovative health care delivery models.

13 (b) To expand evidence-based occupational health best practices,
14 the department shall establish additional centers for occupational
15 health and education, with the goal of extending access to at least
16 fifty percent of injured and ill workers by December 2013 and to all
17 injured workers by December 2015. The department shall also develop
18 additional best practices and incentives that span the entire period of
19 recovery, not only the first twelve weeks.

20 (c) The department shall certify and decertify centers for
21 occupational health and education based on criteria including
22 institutional leadership and geographic areas covered by the center for
23 occupational health and education, occupational health leadership and
24 education, mix of participating health care providers necessary to
25 address the anticipated needs of injured workers, health services
26 coordination to deliver occupational health best practices, indicators
27 to measure the success of the center for occupational health and
28 education, and agreement that the center's providers shall, if
29 feasible, treat certain injured workers if referred by the department
30 or a self-insurer.

31 (d) Health care delivery organizations may apply to the department
32 for certification as a center for occupational health and education.
33 These may include, but are not limited to, hospitals and affiliated
34 clinics and providers, multispecialty clinics, health maintenance
35 organizations, and organized systems of network physicians.

36 (e) The centers for occupational health and education shall
37 implement benchmark quality indicators of occupational health best
38 practices for individual providers, developed in collaboration with the

1 department. A center for occupational health and education shall
2 remove individual providers who do not consistently meet these quality
3 benchmarks.

4 (f) The department shall develop and implement financial and
5 nonfinancial incentives for center for occupational health and
6 education providers that are based on progressive and measurable gains
7 in occupational health best practices, and that are applicable
8 throughout the duration of an injured or ill worker's episode of care.

9 (g) The department shall develop electronic methods of tracking
10 evidence-based quality measures to identify and improve outcomes for
11 injured workers at risk of developing prolonged disability. In
12 addition, these methods must be used to provide systematic feedback to
13 physicians regarding quality of care, to conduct appropriate objective
14 evaluation of progress in the centers for occupational health and
15 education, and to allow efficient coordination of services.

16 (6) If a provider fails to meet the minimum network standards
17 established in subsection (2) of this section, the department is
18 authorized to remove the provider from the network or take other
19 appropriate action regarding a provider's participation. The
20 department may also require remedial steps as a condition for a
21 provider to participate in the network. The department, with input
22 from the advisory group, shall establish waiting periods that may be
23 imposed before a provider who has been denied or removed from the
24 network may reapply.

25 (7) The department may permanently remove a provider from the
26 network or take other appropriate action when the provider exhibits a
27 pattern of conduct of low quality care that exposes patients to risk of
28 physical or psychiatric harm or death. Patterns that qualify as risk
29 of harm include, but are not limited to, poor health care outcomes
30 evidenced by increased, chronic, or prolonged pain or decreased
31 function due to treatments that have not been shown to be curative,
32 safe, or effective or for which it has been shown that the risks of
33 harm exceed the benefits that can be reasonably expected based on peer-
34 reviewed opinion.

35 (8) The department may not remove a health care provider from the
36 network for an isolated instance of poor health and recovery outcomes
37 due to treatment by the provider.

1 (9) When the department terminates a provider from the network, the
2 department or self-insurer shall assist an injured worker currently
3 under the provider's care in identifying a new network provider or
4 providers from whom the worker can select an attending or treating
5 provider. In such a case, the department or self-insurer shall notify
6 the injured worker that he or she must choose a new attending or
7 treating provider.

8 (10) The department may adopt rules related to this section.

9 (11) The department shall report to the workers' compensation
10 advisory committee and to the appropriate committees of the legislature
11 on each December 1st, beginning in 2012 and ending in 2016, on the
12 implementation of the provider network and expansion of the centers for
13 occupational health and education. The reports must include a summary
14 of actions taken, progress toward long-term goals, outcomes of key
15 initiatives, access to care issues, results of disputes or
16 controversies related to new provisions, and whether any changes are
17 needed to further improve the occupational health best practices care
18 of injured workers.

19 **Sec. 49.** RCW 64.44.010 and 2006 c 339 s 201 are each amended to
20 read as follows:

21 The words and phrases defined in this section shall have the
22 following meanings when used in this chapter unless the context clearly
23 indicates otherwise.

24 (1) "Authorized contractor" means a person who decontaminates,
25 demolishes, or disposes of contaminated property as required by this
26 chapter who is certified by the department as provided for in RCW
27 64.44.060.

28 (2) "Contaminated" or "contamination" means polluted by hazardous
29 chemicals so that the property is unfit for human habitation or use due
30 to immediate or long-term hazards. Property that at one time was
31 contaminated but has been satisfactorily decontaminated according to
32 procedures established by the state board of health is not
33 "contaminated."

34 (3) "Department" means the department of health.

35 (4) "Hazardous chemicals" means the following substances associated
36 with the illegal manufacture of controlled substances: (a) Hazardous
37 substances as defined in RCW 70.105D.020; (b) precursor substances as

1 defined in RCW 69.43.010 which the state board of health, in
2 consultation with the (~~state board of pharmacy~~) pharmacy quality
3 assurance commission, has determined present an immediate or long-term
4 health hazard to humans; and (c) the controlled substance or substances
5 being manufactured, as defined in RCW 69.50.101.

6 (5) "Officer" means a local health officer authorized under
7 chapters 70.05, 70.08, and 70.46 RCW.

8 (6) "Property" means any real or personal property, or segregable
9 part thereof, that is involved in or affected by the unauthorized
10 manufacture, distribution, or storage of hazardous chemicals. This
11 includes but is not limited to single-family residences, units of
12 multiplexes, condominiums, apartment buildings, boats, motor vehicles,
13 trailers, manufactured housing, any shop, booth, garden, or storage
14 shed, and all contents of the items referenced in this subsection.

15 **Sec. 50.** RCW 69.04.565 and 1981 c 50 s 1 are each amended to read
16 as follows:

17 Notwithstanding any other provision of state law, DMSO (dimethyl
18 sulfoxide) may be introduced into intrastate commerce as long as (1) it
19 is manufactured or distributed by persons licensed pursuant to chapter
20 18.64 RCW or chapter 18.92 RCW, and (2) it is used, or intended to be
21 used, in the treatment of human beings or animals for any ailment or
22 adverse condition: PROVIDED, That DMSO intended for topical
23 application, consistent with rules governing purity and labeling
24 promulgated by the (~~state board of pharmacy~~) pharmacy quality
25 assurance commission, shall not be considered a legend drug and may be
26 sold by any retailer.

27 **Sec. 51.** RCW 69.04.730 and 1947 c 25 s 91 are each amended to read
28 as follows:

29 The authority to promulgate regulations for the efficient
30 enforcement of this chapter is hereby vested in the director:
31 PROVIDED, HOWEVER, That the director shall designate the (~~Washington~~
32 ~~state board of pharmacy~~) pharmacy quality assurance commission to
33 carry out all the provisions of this chapter pertaining to drugs and
34 cosmetics, with authority to promulgate regulations for the efficient
35 enforcement thereof.

1 **Sec. 52.** RCW 69.38.010 and 1987 c 34 s 1 are each amended to read
2 as follows:

3 As used in this chapter "poison" means:

4 (1) Arsenic and its preparations;

5 (2) Cyanide and its preparations, including hydrocyanic acid;

6 (3) Strychnine; and

7 (4) Any other substance designated by the ((~~state board of~~
8 ~~pharmacy~~)) pharmacy quality assurance commission which, when introduced
9 into the human body in quantities of sixty grains or less, causes
10 violent sickness or death.

11 **Sec. 53.** RCW 69.38.060 and 1989 1st ex.s. c 9 s 440 are each
12 amended to read as follows:

13 The ((~~state board of pharmacy~~)) pharmacy quality assurance
14 commission, after consulting with the department of health, shall
15 require and provide for the annual licensure of every person now or
16 hereafter engaged in manufacturing or selling poisons within this
17 state. Upon a payment of a fee as set by the department, the
18 department shall issue a license in such form as it may prescribe to
19 such manufacturer or seller. Such license shall be displayed in a
20 conspicuous place in such manufacturer's or seller's place of business
21 for which it is issued.

22 Any person manufacturing or selling poison within this state
23 without a license is guilty of a misdemeanor.

24 **Sec. 54.** RCW 69.40.055 and 1981 c 147 s 4 are each amended to read
25 as follows:

26 It shall be unlawful for any person to sell at retail or furnish
27 any repackaged poison drug or product without affixing or causing to be
28 affixed to the bottle, box, vessel, or package a label containing the
29 name of the article, all labeling required by the Food and Drug
30 Administration and other federal or state laws or regulations, and the
31 word "poison" distinctly shown with the name and place of the business
32 of the seller.

33 This section shall not apply to the dispensing of drugs or poisons
34 on the prescription of a practitioner.

35 The ((~~board of pharmacy~~)) pharmacy quality assurance commission

1 shall have the authority to promulgate rules for the enforcement and
2 implementation of this section.

3 Every person who shall violate any of the provisions of this
4 section shall be guilty of a misdemeanor.

5 **Sec. 55.** RCW 69.41.010 and 2012 c 10 s 44 are each amended to read
6 as follows:

7 As used in this chapter, the following terms have the meanings
8 indicated unless the context clearly requires otherwise:

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

12 (a) A practitioner; or

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

15 (2) "Community-based care settings" include: Community residential
16 programs for the developmentally disabled, certified by the department
17 of social and health services under chapter 71A.12 RCW; adult family
18 homes licensed under chapter 70.128 RCW; and assisted living facilities
19 licensed under chapter 18.20 RCW. Community-based care settings do not
20 include acute care or skilled nursing facilities.

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

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

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

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

30 (7) "Distribute" means to deliver other than by administering or
31 dispensing a legend drug.

32 (8) "Distributor" means a person who distributes.

33 (9) "Drug" means:

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

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

3 (c) Substances (other than food, minerals or vitamins) intended to
4 affect the structure or any function of the body of human beings or
5 animals; and

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

9 (10) "Electronic communication of prescription information" means
10 the communication of prescription information by computer, or the
11 transmission of an exact visual image of a prescription by facsimile,
12 or other electronic means for original prescription information or
13 prescription refill information for a legend drug between an authorized
14 practitioner and a pharmacy or the transfer of prescription information
15 for a legend drug from one pharmacy to another pharmacy.

16 (11) "In-home care settings" include an individual's place of
17 temporary and permanent residence, but does not include acute care or
18 skilled nursing facilities, and does not include community-based care
19 settings.

20 (12) "Legend drugs" means any drugs which are required by state law
21 or regulation of the (~~state board of pharmacy~~) pharmacy quality
22 assurance commission to be dispensed on prescription only or are
23 restricted to use by practitioners only.

24 (13) "Legible prescription" means a prescription or medication
25 order issued by a practitioner that is capable of being read and
26 understood by the pharmacist filling the prescription or the nurse or
27 other practitioner implementing the medication order. A prescription
28 must be hand printed, typewritten, or electronically generated.

29 (14) "Medication assistance" means assistance rendered by a
30 nonpractitioner to an individual residing in a community-based care
31 setting or in-home care setting to facilitate the individual's self-
32 administration of a legend drug or controlled substance. It includes
33 reminding or coaching the individual, handing the medication container
34 to the individual, opening the individual's medication container, using
35 an enabler, or placing the medication in the individual's hand, and
36 such other means of medication assistance as defined by rule adopted by
37 the department. A nonpractitioner may help in the preparation of
38 legend drugs or controlled substances for self-administration where a

1 practitioner has determined and communicated orally or by written
2 direction that such medication preparation assistance is necessary and
3 appropriate. Medication assistance shall not include assistance with
4 intravenous medications or injectable medications, except prefilled
5 insulin syringes.

6 (15) "Person" means individual, corporation, government or
7 governmental subdivision or agency, business trust, estate, trust,
8 partnership or association, or any other legal entity.

9 (16) "Practitioner" means:

10 (a) A physician under chapter 18.71 RCW, an osteopathic physician
11 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
12 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
13 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
14 registered nurse, advanced registered nurse practitioner, or licensed
15 practical nurse under chapter 18.79 RCW, an optometrist under chapter
16 18.53 RCW who is certified by the optometry board under RCW 18.53.010,
17 an osteopathic physician assistant under chapter 18.57A RCW, a
18 physician assistant under chapter 18.71A RCW, a naturopath licensed
19 under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or,
20 when acting under the required supervision of a dentist licensed under
21 chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

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

26 (c) A physician licensed to practice medicine and surgery or a
27 physician licensed to practice osteopathic medicine and surgery in any
28 state, or province of Canada, which shares a common border with the
29 state of Washington.

30 (17) "Secretary" means the secretary of health or the secretary's
31 designee.

32 **Sec. 56.** RCW 69.41.075 and 1989 1st ex.s. c 9 s 427 are each
33 amended to read as follows:

34 The (~~state board of pharmacy~~) pharmacy quality assurance
35 commission may make such rules for the enforcement of this chapter as
36 are deemed necessary or advisable. The (~~board~~) commission shall
37 identify, by rule-making pursuant to chapter 34.05 RCW, those drugs

1 which may be dispensed only on prescription or are restricted to use by
2 practitioners, only. In so doing the ((board)) commission shall
3 consider the toxicity or other potentiality for harmful effect of the
4 drug, the method of its use, and any collateral safeguards necessary to
5 its use. The ((board)) commission shall classify a drug as a legend
6 drug where these considerations indicate the drug is not safe for use
7 except under the supervision of a practitioner.

8 In identifying legend drugs the ((board)) commission may
9 incorporate in its rules lists of drugs contained in commercial
10 pharmaceutical publications by making specific reference to each such
11 list and the date and edition of the commercial publication containing
12 it. Any such lists so incorporated shall be available for public
13 inspection at the headquarters of the department of health and shall be
14 available on request from the department of health upon payment of a
15 reasonable fee to be set by the department.

16 **Sec. 57.** RCW 69.41.080 and 1989 c 242 s 1 are each amended to read
17 as follows:

18 Humane societies and animal control agencies registered with the
19 ((state board of pharmacy)) pharmacy quality assurance commission under
20 chapter 69.50 RCW and authorized to euthanize animals may purchase,
21 possess, and administer approved legend drugs for the sole purpose of
22 sedating animals prior to euthanasia, when necessary, and for use in
23 chemical capture programs. For the purposes of this section, "approved
24 legend drugs" means those legend drugs designated by the ((board))
25 commission by rule as being approved for use by such societies and
26 agencies for animal sedating or capture and does not include any
27 substance regulated under chapter 69.50 RCW. Any society or agency so
28 registered shall not permit persons to administer any legend drugs
29 unless such person has demonstrated to the satisfaction of the
30 ((board)) commission adequate knowledge of the potential hazards
31 involved in and the proper techniques to be used in administering the
32 drugs.

33 The ((board)) commission shall promulgate rules to regulate the
34 purchase, possession, and administration of legend drugs by such
35 societies and agencies and to insure strict compliance with the
36 provisions of this section. Such rules shall require that the storage,
37 inventory control, administration, and recordkeeping for approved

1 legend drugs conform to the standards adopted by the ((board))
2 commission under chapter 69.50 RCW to regulate the use of controlled
3 substances by such societies and agencies. The ((board)) commission
4 may suspend or revoke a registration under chapter 69.50 RCW upon a
5 determination by the ((board)) commission that the person administering
6 legend drugs has not demonstrated adequate knowledge as herein
7 provided. This authority is granted in addition to any other power to
8 suspend or revoke a registration as provided by law.

9 **Sec. 58.** RCW 69.41.180 and 1979 c 110 s 7 are each amended to read
10 as follows:

11 The ((state board of pharmacy)) pharmacy quality assurance
12 commission may adopt any necessary rules under chapter 34.05 RCW for
13 the implementation, continuation, or enforcement of RCW 69.41.100
14 through 69.41.180, including, but not limited to, a list of
15 therapeutically or nontherapeutically equivalent drugs which, when
16 adopted, shall be provided to all registered pharmacists in the state
17 and shall be updated as necessary.

18 **Sec. 59.** RCW 69.41.210 and 1980 c 83 s 2 are each amended to read
19 as follows:

20 The terms defined in this section shall have the meanings indicated
21 when used in RCW 69.41.200 through 69.41.260.

22 (1) "Distributor" means any corporation, person, or other entity
23 which distributes for sale a legend drug under its own label even
24 though it is not the actual manufacturer of the legend drug.

25 (2) "Solid dosage form" means capsules or tablets or similar legend
26 drug products intended for administration and which could be ingested
27 orally.

28 (3) "Legend drug" means any drugs which are required by state law
29 or regulation of the ((board)) commission to be dispensed as
30 prescription only or are restricted to use by prescribing practitioners
31 only and shall include controlled substances in Schedules II through V
32 of chapter 69.50 RCW.

33 (4) (("Board" means the state board of pharmacy.)) "Commission"
34 means the pharmacy quality assurance commission.

1 **Sec. 60.** RCW 69.41.240 and 1980 c 83 s 5 are each amended to read
2 as follows:

3 The ((~~board~~)) commission shall have authority to promulgate rules
4 and regulations for the enforcement and implementation of RCW 69.41.050
5 and 69.41.200 through 69.41.260.

6 **Sec. 61.** RCW 69.41.250 and 1980 c 83 s 6 are each amended to read
7 as follows:

8 (1) The ((~~board~~)) commission, upon application of a manufacturer,
9 may exempt a particular legend drug from the requirements of RCW
10 69.41.050 and 69.41.200 through 69.41.260 on the grounds that
11 imprinting is infeasible because of size, texture, or other unique
12 characteristics.

13 (2) The provisions of RCW 69.41.050 and 69.41.200 through 69.41.260
14 shall not apply to any legend drug which is prepared or manufactured by
15 a pharmacy in this state and is for the purpose of retail sale from
16 such pharmacy and not intended for resale.

17 **Sec. 62.** RCW 69.41.280 and 2005 c 274 s 329 are each amended to
18 read as follows:

19 All records, reports, and information obtained by the ((~~board~~))
20 pharmacy quality assurance commission or its authorized representatives
21 from or on behalf of a pharmaceutical manufacturer, representative of
22 a manufacturer, wholesaler, pharmacy, or practitioner who purchases,
23 dispenses, or distributes legend drugs under this chapter are
24 confidential and exempt from public inspection and copying under
25 chapter 42.56 RCW. Nothing in this section restricts the
26 investigations or the proceedings of the ((~~board~~)) commission so long
27 as the ((~~board~~)) commission and its authorized representatives comply
28 with the provisions of chapter 42.56 RCW.

29 **Sec. 63.** RCW 69.41.310 and 1989 c 369 s 2 are each amended to read
30 as follows:

31 The ((~~state board of pharmacy~~)) pharmacy quality assurance
32 commission shall specify by rule drugs to be classified as steroids as
33 defined in RCW 69.41.300.

34 On or before December 1 of each year, the ((~~board~~)) commission
35 shall inform the appropriate legislative committees of reference of the

1 drugs that the (~~board~~) commission has added to the steroids in RCW
2 69.41.300. The (~~board~~) commission shall submit a statement of
3 rationale for the changes.

4 **Sec. 64.** RCW 69.43.010 and 2001 c 96 s 2 are each amended to read
5 as follows:

6 (1) A report to the (~~state board of pharmacy~~) pharmacy quality
7 assurance commission shall be submitted in accordance with this chapter
8 by a manufacturer, wholesaler, retailer, or other person who sells,
9 transfers, or otherwise furnishes to any person any of the following
10 substances or their salts or isomers:

- 11 (a) Anthranilic acid;
- 12 (b) Barbituric acid;
- 13 (c) Chlorephedrine;
- 14 (d) Diethyl malonate;
- 15 (e) D-lysergic acid;
- 16 (f) Ephedrine;
- 17 (g) Ergotamine tartrate;
- 18 (h) Ethylamine;
- 19 (i) Ethyl malonate;
- 20 (j) Ethylephedrine;
- 21 (k) Lead acetate;
- 22 (l) Malonic acid;
- 23 (m) Methylamine;
- 24 (n) Methylformamide;
- 25 (o) Methylephedrine;
- 26 (p) Methylpseudoephedrine;
- 27 (q) N-acetylanthranilic acid;
- 28 (r) Norpseudoephedrine;
- 29 (s) Phenylacetic acid;
- 30 (t) Phenylpropanolamine;
- 31 (u) Piperidine;
- 32 (v) Pseudoephedrine; and
- 33 (w) Pyrrolidine.

34 (2) The (~~state board of pharmacy~~) pharmacy quality assurance
35 commission shall administer this chapter and may, by rule adopted
36 pursuant to chapter 34.05 RCW, add a substance to or remove a substance

1 from the list in subsection (1) of this section. In determining
2 whether to add or remove a substance, the (~~board~~) commission shall
3 consider the following:

4 (a) The likelihood that the substance is useable as a precursor in
5 the illegal production of a controlled substance as defined in chapter
6 69.50 RCW;

7 (b) The availability of the substance;

8 (c) The relative appropriateness of including the substance in this
9 chapter or in chapter 69.50 RCW; and

10 (d) The extent and nature of legitimate uses for the substance.

11 (3)(a) Any manufacturer, wholesaler, retailer, or other person
12 shall, before selling, transferring, or otherwise furnishing any
13 substance specified in subsection (1) of this section to any person,
14 require proper identification from the purchaser.

15 (b) For the purposes of this subsection, "proper identification"
16 means:

17 (i) A motor vehicle operator's license or other official state-
18 issued identification of the purchaser containing a photograph of the
19 purchaser, and includes the residential or mailing address of the
20 purchaser, other than a post office box number;

21 (ii) The motor vehicle license number of any motor vehicle owned or
22 operated by the purchaser;

23 (iii) A letter of authorization from any business for which any
24 substance specified in subsection (1) of this section is being
25 furnished, which includes the business license number and address of
26 the business;

27 (iv) A description of how the substance is to be used; and

28 (v) The signature of the purchaser.

29 The person selling, transferring, or otherwise furnishing any
30 substance specified in subsection (1) of this section shall affix his
31 or her signature as a witness to the signature and identification of
32 the purchaser.

33 (c) A violation of or a failure to comply with this subsection is
34 a misdemeanor.

35 (4) Any manufacturer, wholesaler, retailer, or other person who
36 sells, transfers, or otherwise furnishes the substance specified in
37 subsection (1) of this section to any person shall, not less than
38 twenty-one days before delivery of the substance, submit a report of

1 the transaction, which includes the identification information
2 specified in subsection (3) of this section to the (~~state board of~~
3 ~~pharmacy~~) pharmacy quality assurance commission. However, the (~~state~~
4 ~~board of pharmacy~~) pharmacy quality assurance commission may authorize
5 the submission of the reports on a monthly basis with respect to
6 repeated, regular transactions between the furnisher and the recipient
7 involving the same substance if the (~~state board of pharmacy~~)
8 pharmacy quality assurance commission determines that either of the
9 following exist:

10 (a) A pattern of regular supply of the substance exists between the
11 manufacturer, wholesaler, retailer, or other person who sells,
12 transfers, or otherwise furnishes such substance and the recipient of
13 the substance; or

14 (b) The recipient has established a record of using the substance
15 for lawful purposes.

16 (5) Any person specified in subsection (4) of this section who does
17 not submit a report as required by subsection (4) of this section is
18 guilty of a gross misdemeanor.

19 **Sec. 65.** RCW 69.43.020 and 2001 c 96 s 3 are each amended to read
20 as follows:

21 (1) Any manufacturer, wholesaler, retailer, or other person who
22 receives from a source outside of this state any substance specified in
23 RCW 69.43.010(1) shall submit a report of such transaction to the
24 (~~state board of pharmacy~~) pharmacy quality assurance commission under
25 rules adopted by the (~~board~~) commission.

26 (2) Any person specified in subsection (1) of this section who does
27 not submit a report as required by subsection (1) of this section is
28 guilty of a gross misdemeanor.

29 **Sec. 66.** RCW 69.43.030 and 1988 c 147 s 3 are each amended to read
30 as follows:

31 RCW 69.43.010 and 69.43.020 do not apply to any of the following:

32 (1) Any pharmacist or other authorized person who sells or
33 furnishes a substance upon the prescription of a practitioner, as
34 defined in chapter 69.41 RCW;

35 (2) Any practitioner who administers or furnishes a substance to
36 his or her patients;

1 (3) Any manufacturer or wholesaler licensed by the (~~state board of~~
2 ~~pharmacy~~) pharmacy quality assurance commission who sells, transfers,
3 or otherwise furnishes a substance to a licensed pharmacy or
4 practitioner;

5 (4) Any sale, transfer, furnishing, or receipt of any drug that
6 contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any
7 cosmetic that contains a substance specified in RCW 69.43.010(1), if
8 such drug or cosmetic is lawfully sold, transferred, or furnished, over
9 the counter without a prescription under chapter 69.04 or 69.41 RCW.

10 **Sec. 67.** RCW 69.43.035 and 2004 c 52 s 6 are each amended to read
11 as follows:

12 (1) Any manufacturer or wholesaler who sells, transfers, or
13 otherwise furnishes any substance specified in RCW 69.43.010(1) to any
14 person in a suspicious transaction shall report the transaction in
15 writing to the (~~state board of pharmacy~~) pharmacy quality assurance
16 commission.

17 (2) Any person specified in subsection (1) of this section who does
18 not submit a report as required by subsection (1) of this section is
19 guilty of a gross misdemeanor.

20 (3) For the purposes of this section, "suspicious transaction"
21 means a sale or transfer to which any of the following applies:

22 (a) The circumstances of the sale or transfer would lead a
23 reasonable person to believe that the substance is likely to be used
24 for the purpose of unlawfully manufacturing a controlled substance
25 under chapter 69.50 RCW, based on such factors as the amount involved,
26 the method of payment, the method of delivery, and any past dealings
27 with any participant in the transaction. The (~~state board of~~
28 ~~pharmacy~~) pharmacy quality assurance commission shall adopt by rule
29 criteria for determining whether a transaction is suspicious, taking
30 into consideration the recommendations in appendix A of the report to
31 the United States attorney general by the suspicious orders task force
32 under the federal comprehensive methamphetamine control act of 1996.

33 (b) The transaction involves payment for any substance specified in
34 RCW 69.43.010(1) in cash or money orders in a total amount of more than
35 two hundred dollars.

36 (4) The (~~board of pharmacy~~) pharmacy quality assurance commission

1 shall transmit to the department of revenue a copy of each report of a
2 suspicious transaction that it receives under this section.

3 **Sec. 68.** RCW 69.43.040 and 2001 c 96 s 7 are each amended to read
4 as follows:

5 (1) The department of health, in accordance with rules developed by
6 the (~~state board of pharmacy~~) pharmacy quality assurance commission
7 shall provide a common reporting form for the substances in RCW
8 69.43.010 that contains at least the following information:

9 (a) Name of the substance;

10 (b) Quantity of the substance sold, transferred, or furnished;

11 (c) The date the substance was sold, transferred, or furnished;

12 (d) The name and address of the person buying or receiving the
13 substance; and

14 (e) The name and address of the manufacturer, wholesaler, retailer,
15 or other person selling, transferring, or furnishing the substance.

16 (2) Monthly reports authorized under RCW 69.43.010(4) may be
17 computer-generated in accordance with rules adopted by the department.

18 **Sec. 69.** RCW 69.43.043 and 2001 c 96 s 5 are each amended to read
19 as follows:

20 (1) Any manufacturer or wholesaler who sells, transfers, or
21 otherwise furnishes any substance specified in RCW 69.43.010(1) to any
22 person shall maintain a record of each such sale or transfer. The
23 records must contain:

24 (a) The name of the substance;

25 (b) The quantity of the substance sold, transferred, or furnished;

26 (c) The date the substance was sold, transferred, or furnished;

27 (d) The name and address of the person buying or receiving the
28 substance; and

29 (e) The method of and amount of payment for the substance.

30 (2) The records of sales and transfers required by this section
31 shall be available for inspection by the (~~state board of pharmacy~~)
32 pharmacy quality assurance commission and its authorized
33 representatives and shall be maintained for two years.

34 (3) A violation of this section is a gross misdemeanor.

1 **Sec. 73.** RCW 69.43.090 and 2001 c 96 s 8 are each amended to read
2 as follows:

3 (1) Any manufacturer, wholesaler, retailer, or other person who
4 sells, transfers, or otherwise furnishes any substance specified in RCW
5 69.43.010 to any person or who receives from a source outside of the
6 state any substance specified in RCW 69.43.010 shall obtain a permit
7 for the conduct of that business from the ((~~state board of pharmacy~~))
8 pharmacy quality assurance commission. However, a permit shall not be
9 required of any manufacturer, wholesaler, retailer, or other person for
10 the sale, transfer, furnishing, or receipt of any drug that contains
11 ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic
12 that contains a substance specified in RCW 69.43.010(1), if such drug
13 or cosmetic is lawfully sold, transferred, or furnished over the
14 counter without a prescription or by a prescription under chapter 69.04
15 or 69.41 RCW.

16 (2) Applications for permits shall be filed with the department in
17 writing and signed by the applicant, and shall set forth the name of
18 the applicant, the business in which the applicant is engaged, the
19 business address of the applicant, and a full description of any
20 substance sold, transferred, or otherwise furnished, or received.

21 (3) The ((~~board~~)) commission may grant permits on forms prescribed
22 by it. The permits shall be effective for not more than one year from
23 the date of issuance.

24 (4) Each applicant shall pay at the time of filing an application
25 for a permit a fee determined by the department.

26 (5) A permit granted under this chapter may be renewed on a date to
27 be determined by the ((~~board~~)) commission, and annually thereafter,
28 upon the filing of a renewal application and the payment of a permit
29 renewal fee determined by the department.

30 (6) Permit fees charged by the department shall not exceed the
31 costs incurred by the department in administering this chapter.

32 (7) Selling, transferring, or otherwise furnishing, or receiving
33 any substance specified in RCW 69.43.010 without a required permit, is
34 a gross misdemeanor.

35 **Sec. 74.** RCW 69.43.100 and 1988 c 147 s 10 are each amended to
36 read as follows:

1 The (~~board~~) pharmacy quality assurance commission shall have the
2 power to refuse, suspend, or revoke the permit of any manufacturer or
3 wholesaler upon proof that:

4 (1) The permit was procured through fraud, misrepresentation, or
5 deceit;

6 (2) The permittee has violated or has permitted any employee to
7 violate any of the laws of this state relating to drugs, controlled
8 substances, cosmetics, or nonprescription drugs, or has violated any of
9 the rules and regulations of the (~~board of pharmacy~~) pharmacy quality
10 assurance commission.

11 **Sec. 75.** RCW 69.43.105 and 2010 c 182 s 1 are each amended to read
12 as follows:

13 (1) For purposes of this section, "traditional Chinese herbal
14 practitioner" means a person who is certified as a diplomate in Chinese
15 herbology from the national certification commission for acupuncture
16 and oriental medicine or who has received a certificate in Chinese
17 herbology from a school accredited by the accreditation council on
18 acupuncture and oriental medicine.

19 (2) A pharmacy licensed by, or shopkeeper or itinerant vendor
20 registered with, the department of health under chapter 18.64 RCW, or
21 an employee thereof, a practitioner as defined in RCW 18.64.011, or a
22 traditional Chinese herbal practitioner may not knowingly sell,
23 transfer, or otherwise furnish to any person a product at retail that
24 he or she knows to contain any detectable quantity of ephedrine,
25 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
26 salts of isomers, without first obtaining photo identification of the
27 person that shows the date of birth of the person.

28 (3) A person buying or receiving a product at retail containing any
29 detectable quantity of ephedrine, pseudoephedrine, or
30 phenylpropanolamine, or their salts, isomers, or salts of isomers, from
31 a pharmacy licensed by, or shopkeeper or itinerant vendor registered
32 with, the department of health under chapter 18.64 RCW, or an employee
33 thereof, a practitioner as defined in RCW 18.64.011, or a traditional
34 Chinese herbal practitioner must first produce photo identification of
35 the person that shows the date of birth of the person.

36 (4) Any product containing any detectable quantity of ephedrine,
37 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or

1 salts of isomers, shall be kept (a) behind a counter where the public
2 is not permitted, or (b) in a locked display case so that a customer
3 wanting access must ask an employee of the merchant for assistance.

4 (5) No pharmacy licensed by, or shopkeeper or itinerant vendor
5 registered with, the department of health under chapter 18.64 RCW, or
6 an employee thereof, a practitioner as defined in RCW 18.64.011, or a
7 traditional Chinese herbal practitioner may sell any product containing
8 any detectable quantity of ephedrine, pseudoephedrine, or
9 phenylpropanolamine, or their salts, isomers, or salts of isomers, to
10 a person that is not at least eighteen years old.

11 (6) A pharmacy licensed by, or shopkeeper or itinerant vendor
12 registered with, the department of health under chapter 18.64 RCW
13 selling a nonprescription drug containing ephedrine, pseudoephedrine,
14 phenylpropanolamine, or their salts, isomers, or salts of isomers shall
15 require the purchaser to electronically or manually sign a record of
16 the transaction. The record must include the name and address of the
17 purchaser, the date and time of the sale, the name and initials of the
18 shopkeeper, itinerant vendor, pharmacist, pharmacy technician, or
19 employee conducting the transaction, the name of the product being
20 sold, as well as the total quantity in grams, of ephedrine,
21 pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts
22 of isomers, being sold.

23 (7) The ((~~board of pharmacy~~)) pharmacy quality assurance
24 commission, by rule, may exempt products containing ephedrine,
25 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
26 salts of isomers, in combination with another active ingredient from
27 the requirements of this section if they are found not to be used in
28 the illegal manufacture of methamphetamine or other controlled
29 dangerous substances. A manufacturer of a drug product may apply for
30 removal of the product from the requirements of this section if the
31 product is determined by the ((~~board~~)) commission to have been
32 formulated in such a way as to effectively prevent the conversion of
33 the active ingredient into methamphetamine. The burden of proof for
34 exemption is upon the person requesting the exemption. The petitioner
35 shall provide the ((~~board~~)) commission with evidence that the product
36 has been formulated in such a way as to serve as an effective general
37 deterrent to the conversion of pseudoephedrine into methamphetamine.
38 The evidence must include the furnishing of a valid scientific study,

1 conducted by an independent, professional laboratory and evincing
2 professional quality chemical analysis. Factors to be considered in
3 whether a product should be excluded from this section include but are
4 not limited to:

5 (a) Ease with which the product can be converted to
6 methamphetamine;

7 (b) Ease with which ephedrine, pseudoephedrine, or
8 phenylpropanolamine is extracted from the substance and whether it
9 forms an emulsion, salt, or other form;

10 (c) Whether the product contains a "molecular lock" that renders it
11 incapable of being converted into methamphetamine;

12 (d) Presence of other ingredients that render the product less
13 likely to be used in the manufacture of methamphetamine; and

14 (e) Any pertinent data that can be used to determine the risk of
15 the substance being used in the illegal manufacture of methamphetamine
16 or any other controlled substance.

17 (8) Nothing in this section applies:

18 (a) To any product containing ephedrine, pseudoephedrine, or
19 phenylpropanolamine, or their salts, isomers, or salts of isomers that
20 is not the only active ingredient and that is in liquid, liquid
21 capsule, or gel capsule form;

22 (b) To the sale of a product that may only be sold upon the
23 presentation of a prescription;

24 (c) To the sale of a product by a traditional Chinese herbal
25 practitioner to a patient; or

26 (d) When the details of the transaction are recorded in a pharmacy
27 profile individually identified with the recipient and maintained by a
28 licensed pharmacy.

29 (9)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor
30 registered with, the department of health under chapter 18.64 RCW, a
31 practitioner as defined in RCW 18.64.011, or a traditional Chinese
32 herbal practitioner may retaliate against any employee that has made a
33 good faith attempt to comply with the requirements of this section by
34 requesting that a customer present photo identification, making a
35 reasonable effort to determine the customer's age.

36 (b) No pharmacy licensed by, or shopkeeper or itinerant vendor
37 registered with, the department of health under chapter 18.64 RCW, a
38 practitioner as defined in RCW 18.64.011, or a traditional Chinese

1 herbal practitioner is subject to prosecution under subsection (10) of
2 this section if they made a good faith attempt to comply with the
3 requirements of this section by requesting that a customer present
4 photo identification, making a reasonable effort to determine the
5 customer's age.

6 (10) A violation of this section is a gross misdemeanor.

7 **Sec. 76.** RCW 69.43.110 and 2010 c 182 s 2 are each amended to read
8 as follows:

9 (1) It is unlawful for a pharmacy licensed by, or shopkeeper or
10 itinerant vendor registered with, the department of health under
11 chapter 18.64 RCW, or an employee thereof, or a practitioner as defined
12 in RCW 18.64.011, knowingly to sell, transfer, or to otherwise furnish,
13 in a single transaction a total of more than 3.6 grams of ephedrine,
14 pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts
15 of isomers, in any twenty-four hour period or more than a total of nine
16 grams per purchaser in any thirty-day period.

17 (2) It is unlawful for a person who is not a manufacturer,
18 wholesaler, pharmacy, practitioner, shopkeeper, or itinerant vendor
19 licensed by or registered with the department of health under chapter
20 18.64 RCW to purchase or acquire more than 3.6 grams in any twenty-four
21 hour period, or more than a total of nine grams in any thirty-day
22 period, of the substances specified in subsection (1) of this section.

23 (3) It is unlawful for any person to sell or distribute any of the
24 substances specified in subsection (1) of this section unless the
25 person is licensed by or registered with the department of health under
26 chapter 18.64 RCW, or is a practitioner as defined in RCW 18.64.011.

27 (4)(a) Beginning July 1, 2011, or the date upon which the
28 electronic sales tracking system established under RCW 69.43.165 is
29 available, whichever is later, a pharmacy licensed by, or shopkeeper or
30 itinerant vendor registered with, the department of health under
31 chapter 18.64 RCW shall, before completing a sale under this section,
32 submit the required information to the electronic sales tracking system
33 established under RCW 69.43.165, as long as such a system is available
34 without cost to the pharmacy, shopkeeper, or itinerant vendor for
35 accessing the system. The pharmacy, shopkeeper, or itinerant vendor
36 may not complete the sale if the system generates a stop sale alert,
37 except as permitted in RCW 69.43.165.

1 (b) If a pharmacy, shopkeeper, or itinerant vendor selling a
2 nonprescription drug containing ephedrine, pseudoephedrine, or
3 phenylpropanolamine, or their salts, isomers, or salts of isomers
4 experiences mechanical or electronic failure of the electronic sales
5 tracking system and is unable to comply with the electronic sales
6 tracking requirement, he or she shall maintain a written log or an
7 alternative electronic recordkeeping mechanism until such time as he or
8 she is able to comply with the electronic sales tracking requirement.

9 (c) A pharmacy, shopkeeper, or itinerant vendor selling a
10 nonprescription drug containing ephedrine, pseudoephedrine, or
11 phenylpropanolamine, or their salts, isomers, or salts of isomers may
12 seek an exemption from submitting transactions to the electronic sales
13 tracking system in writing to the (~~board of pharmacy~~) pharmacy
14 quality assurance commission stating the reasons for the exemption.
15 The (~~board~~) commission may grant an exemption for good cause shown,
16 but in no event shall a granted exemption exceed one hundred eighty
17 days. The (~~board~~) commission may grant multiple exemptions for any
18 pharmacy, shopkeeper, or itinerant vendor if the good cause shown
19 indicates significant hardship for compliance with this section. A
20 pharmacy, shopkeeper, or itinerant vendor that receives an exemption
21 shall maintain a logbook in hardcopy form and must require the
22 purchaser to provide the information required under this section before
23 the completion of any sale. The logbook shall be maintained as a
24 record of each sale for inspection by any law enforcement officer or
25 (~~board~~) commission inspector during normal business hours in
26 accordance with any rules adopted pursuant to RCW 69.43.165. For
27 purposes of this subsection (4)(c), "good cause" includes, but is not
28 limited to, situations where the installation of the necessary
29 equipment to access the system is unavailable or cost prohibitive to
30 the pharmacy, shopkeeper, or itinerant vendor.

31 (d) A pharmacy, shopkeeper, or itinerant vendor may withdraw from
32 participating in the electronic sales tracking system if the system is
33 no longer being furnished without cost for accessing the system. A
34 pharmacy, shopkeeper, or itinerant vendor who withdraws from the
35 electronic sales tracking system is subject to the same requirements as
36 a pharmacy, shopkeeper, or itinerant vendor who has been granted an
37 exemption under (c) of this subsection.

38 (e) For the purposes of this subsection (4) and RCW 69.43.165:

- 1 (i) "Cost for accessing the system" means costs relating to:
2 (A) Access to the web-based electronic sales tracking software,
3 including inputting and retrieving data;
4 (B) The web-based software known as software as a service;
5 (C) Training; and
6 (D) Technical support to integrate to point of sale vendors, if
7 necessary.
- 8 (ii) "Cost for accessing the system" does not include:
9 (A) Costs relating to required internet access;
10 (B) Optional hardware that a pharmacy may choose to purchase for
11 work flow purposes; or
12 (C) Other equipment.
13 (5) A violation of this section is a gross misdemeanor.

14 **Sec. 77.** RCW 69.43.130 and 2004 c 52 s 7 are each amended to read
15 as follows:

16 RCW 69.43.110 and 69.43.120 do not apply to:

17 (1) Pediatric products primarily intended for administration to
18 children under twelve years of age, according to label instructions,
19 either: (a) In solid dosage form whose individual dosage units do not
20 exceed fifteen milligrams of ephedrine, pseudoephedrine, or
21 phenylpropanolamine; or (b) in liquid form whose recommended dosage,
22 according to label instructions, does not exceed fifteen milligrams of
23 ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters
24 of liquid product;

25 (2) Pediatric liquid products primarily intended for administration
26 to children under two years of age for which the recommended dosage
27 does not exceed two milliliters and the total package content does not
28 exceed one fluid ounce;

29 (3) Products that the ((~~state board of pharmacy~~)) pharmacy quality
30 assurance commission, upon application of a manufacturer, exempts by
31 rule from RCW 69.43.110 and 69.43.120 because the product has been
32 formulated in such a way as to effectively prevent the conversion of
33 the active ingredient into methamphetamine, or its salts or precursors;
34 or

35 (4) Products, as packaged, that the ((~~board of pharmacy~~)) pharmacy
36 quality assurance commission, upon application of a manufacturer,
37 exempts from RCW 69.43.110(1)((~~b~~)) and 69.43.120 because:

1 (a) The product meets the federal definition of an ordinary over-
2 the-counter pseudoephedrine product as defined in 21 U.S.C. 802;

3 (b) The product is a salt, isomer, or salts of isomers of
4 pseudoephedrine and, as packaged, has a total weight of more than three
5 grams but the net weight of the pseudoephedrine base is equal to or
6 less than three grams; and

7 (c) The (~~board of pharmacy~~) pharmacy quality assurance commission
8 determines that the value to the people of the state of having the
9 product, as packaged, available for sale to consumers outweighs the
10 danger, and the product, as packaged, has not been used in the illegal
11 manufacture of methamphetamine.

12 **Sec. 78.** RCW 69.43.140 and 2001 c 96 s 12 are each amended to read
13 as follows:

14 (1) In addition to the other penalties provided for in this chapter
15 or in chapter 18.64 RCW, the (~~state board of pharmacy~~) pharmacy
16 quality assurance commission may impose a civil penalty, not to exceed
17 ten thousand dollars for each violation, on any licensee or registrant
18 who has failed to comply with this chapter or the rules adopted under
19 this chapter. In the case of a continuing violation, every day the
20 violation continues shall be considered a separate violation.

21 (2) The (~~state board of pharmacy~~) pharmacy quality assurance
22 commission may waive the suspension or revocation of a license or
23 registration issued under chapter 18.64 RCW, or waive any civil penalty
24 under this chapter, if the licensee or registrant establishes that he
25 or she acted in good faith to prevent violations of this chapter, and
26 the violation occurred despite the licensee's or registrant's exercise
27 of due diligence. In making such a determination, the (~~state board of~~
28 ~~pharmacy~~) pharmacy quality assurance commission may consider evidence
29 that an employer trained employees on how to sell, transfer, or
30 otherwise furnish substances specified in RCW 69.43.010(1) in
31 accordance with applicable laws.

32 **Sec. 79.** RCW 69.43.165 and 2010 c 182 s 3 are each amended to read
33 as follows:

34 (1) The (~~board of pharmacy~~) pharmacy quality assurance commission
35 shall implement a real-time electronic sales tracking system to monitor
36 the nonprescription sale of products in this state containing any

1 detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine,
2 or their salts, isomers, or salts of isomers, provided that the system
3 is available to the state without cost for accessing the system to the
4 state or retailers. The (~~board~~) commission is authorized to enter
5 into a public-private partnership, through a memorandum of
6 understanding or similar arrangement, to make the system available.

7 (2) The records submitted to the tracking system are for the
8 confidential use of the pharmacy, shopkeeper, or itinerant vendor who
9 submitted them, except that:

10 (a) The records must be produced in court when lawfully required;

11 (b) The records must be open for inspection by the (~~board of~~
12 ~~pharmacy~~) pharmacy quality assurance commission; and

13 (c) The records must be available to any general or limited
14 authority Washington peace officer to enforce the provisions of this
15 chapter or to federal law enforcement officers in accordance with rules
16 adopted by the (~~board of pharmacy~~) pharmacy quality assurance
17 commission regarding the privacy of the purchaser of products covered
18 by chapter 182, Laws of 2010 and law enforcement access to the records
19 submitted to the tracking system as provided in this section consistent
20 with the federal combat meth act.

21 (3) The electronic sales tracking system shall be capable of
22 generating a stop sale alert, which shall be a notification that
23 completion of the sale would result in the seller or purchaser
24 violating the quantity limits in RCW 69.43.110 (1) and (2). The system
25 shall contain an override function for use by a dispenser of ephedrine,
26 pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts
27 of isomers, who has a reasonable fear of imminent bodily harm. Each
28 instance in which the override function is utilized shall be logged by
29 the system.

30 (4) The (~~board of pharmacy~~) pharmacy quality assurance commission
31 shall have the authority to adopt rules necessary to implement and
32 enforce the provisions of this section. The (~~board of pharmacy~~)
33 pharmacy quality assurance commission shall adopt rules regarding the
34 privacy of the purchaser of products covered by chapter 182, Laws of
35 2010, and any public or law enforcement access to the records submitted
36 to the tracking system as provided in subsection (2)(c) of this section
37 consistent with the federal combat meth act.

1 (5) The (~~board of pharmacy~~) pharmacy quality assurance commission
2 may not raise licensing or registration fees to fund the rule making or
3 implementation of this section.

4 **Sec. 80.** RCW 69.43.180 and 2005 c 388 s 3 are each amended to read
5 as follows:

6 (1) The Washington association of sheriffs and police chiefs or the
7 Washington state patrol may petition the (~~state board of pharmacy~~)
8 pharmacy quality assurance commission to apply the log requirements in
9 RCW 69.43.170 to one or more products that contain ephedrine,
10 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
11 salts of isomers, that is not the only active ingredient and that is in
12 liquid, liquid capsule, or gel capsule form. The petition shall
13 establish that:

14 (a) Ephedrine, pseudoephedrine, or phenylpropanolamine can be
15 effectively extracted from the product and converted into
16 methamphetamine or another controlled dangerous substance; and

17 (b) Law enforcement, the Washington state patrol, or the department
18 of ecology are finding substantial evidence that the product is being
19 used for the illegal manufacture of methamphetamine or another
20 controlled dangerous substance.

21 (2) The (~~board of pharmacy~~) pharmacy quality assurance commission
22 shall adopt rules when a petition establishes that requiring the
23 application of the log requirements in RCW 69.43.170 to the sale of the
24 product at retail is warranted based upon the effectiveness and extent
25 of use of the product for the illegal manufacture of methamphetamine or
26 other controlled dangerous substances and the extent of the burden of
27 any restrictions upon consumers. The (~~board of pharmacy~~) pharmacy
28 quality assurance commission may adopt emergency rules to apply the log
29 requirements to the sale of a product when the petition establishes
30 that the immediate restriction of the product is necessary in order to
31 protect public health and safety.

32 **Sec. 81.** RCW 69.45.010 and 1994 sp.s. c 9 s 738 are each amended
33 to read as follows:

34 The definitions in this section apply throughout this chapter.

35 (1) (~~"Board" means the board of pharmacy.~~) "Commission" means the
36 pharmacy quality assurance commission.

1 (2) "Drug samples" means any federal food and drug administration
2 approved controlled substance, legend drug, or products requiring
3 prescriptions in this state, which is distributed at no charge to a
4 practitioner by a manufacturer or a manufacturer's representative,
5 exclusive of drugs under clinical investigations approved by the
6 federal food and drug administration.

7 (3) "Controlled substance" means a drug, substance, or immediate
8 precursor of such drug or substance, so designated under or pursuant to
9 chapter 69.50 RCW, the uniform controlled substances act.

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

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

17 (6) "Distribute" means to deliver, other than by administering or
18 dispensing, a legend drug.

19 (7) "Legend drug" means any drug that is required by state law or
20 by regulations of the (~~board~~) commission to be dispensed on
21 prescription only or is restricted to use by practitioners only.

22 (8) "Manufacturer" means a person or other entity engaged in the
23 manufacture or distribution of drugs or devices, but does not include
24 a manufacturer's representative.

25 (9) "Person" means any individual, corporation, government or
26 governmental subdivision or agency, business trust, estate, trust,
27 partnership, association, or any other legal entity.

28 (10) "Practitioner" means a physician under chapter 18.71 RCW, an
29 osteopathic physician or an osteopathic physician and surgeon under
30 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric
31 physician and surgeon under chapter 18.22 RCW, a veterinarian under
32 chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a commissioned
33 medical or dental officer in the United States armed forces or the
34 public health service in the discharge of his or her official duties,
35 a duly licensed physician or dentist employed by the veterans
36 administration in the discharge of his or her official duties, a
37 registered nurse or advanced registered nurse practitioner under
38 chapter 18.79 RCW when authorized to prescribe by the nursing care

1 quality assurance commission, an osteopathic physician assistant under
2 chapter 18.57A RCW when authorized by the board of osteopathic medicine
3 and surgery, or a physician assistant under chapter 18.71A RCW when
4 authorized by the medical quality assurance commission.

5 (11) "Manufacturer's representative" means an agent or employee of
6 a drug manufacturer who is authorized by the drug manufacturer to
7 possess drug samples for the purpose of distribution in this state to
8 appropriately authorized health care practitioners.

9 (12) "Reasonable cause" means a state of facts found to exist that
10 would warrant a reasonably intelligent and prudent person to believe
11 that a person has violated state or federal drug laws or regulations.

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

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

15 **Sec. 82.** RCW 69.45.020 and 1989 1st ex.s. c 9 s 445 are each
16 amended to read as follows:

17 A manufacturer that intends to distribute drug samples in this
18 state shall register annually with the department, providing the name
19 and address of the manufacturer, and shall:

20 (1) Provide a twenty-four hour telephone number and the name of the
21 individual(s) who shall respond to reasonable official inquiries from
22 the department, as directed by the (~~board~~) commission, based on
23 reasonable cause, regarding required records, reports, or requests for
24 information pursuant to a specific investigation of a possible
25 violation. Each official request by the department and each response
26 by a manufacturer shall be limited to the information specifically
27 relevant to the particular official investigation. Requests for the
28 address of sites in this state at which drug samples are stored by the
29 manufacturer's representative and the names and addresses of the
30 individuals who are responsible for the storage or distribution of the
31 drug samples shall be responded to as soon as possible but not later
32 than the close of business on the next business day following the
33 request; or

34 (2) If a twenty-four hour telephone number is not available,
35 provide the addresses of sites in this state at which drug samples are
36 stored by the manufacturer's representative, and the names and
37 addresses of the individuals who are responsible for the storage or

1 distribution of the drug samples. The manufacturer shall annually
2 submit a complete updated list of the sites and individuals to the
3 department.

4 **Sec. 83.** RCW 69.45.060 and 1987 c 411 s 6 are each amended to read
5 as follows:

6 Surplus, outdated, or damaged drug samples shall be disposed of as
7 follows:

8 (1) Returned to the manufacturer; or

9 (2) Witnessed destruction by such means as to assure that the drug
10 cannot be retrieved. However, controlled substances shall be returned
11 to the manufacturer or disposed of in accordance with rules adopted by
12 the ((board)) commission: PROVIDED, That the ((board)) commission
13 shall adopt by rule the regulations of the federal drug enforcement
14 administration or its lawful successor unless, stating reasonable
15 grounds, it adopts rules consistent with such regulations.

16 **Sec. 84.** RCW 69.45.080 and 1987 c 411 s 8 are each amended to read
17 as follows:

18 (1) The manufacturer is responsible for the actions and conduct of
19 its representatives with regard to drug samples.

20 (2) The ((board)) commission may hold a public hearing to examine
21 a possible violation and may require a designated representative of the
22 manufacturer to attend.

23 (3) If a manufacturer fails to comply with this chapter following
24 notification by the ((board)) commission, the ((board)) commission may
25 impose a civil penalty of up to five thousand dollars. The ((board))
26 commission shall take no action to impose any civil penalty except
27 pursuant to a hearing held in accordance with chapter 34.05 RCW.

28 (4) Specific drug samples which are distributed in this state in
29 violation of this chapter, following notification by the ((board))
30 commission, shall be subject to seizure following the procedures set
31 out in RCW 69.41.060.

32 **Sec. 85.** RCW 69.45.090 and 2005 c 274 s 330 are each amended to
33 read as follows:

34 All records, reports, and information obtained by the ((board))
35 commission from or on behalf of a manufacturer or manufacturer's

1 representative under this chapter are confidential and exempt from
2 public inspection and copying under chapter 42.56 RCW. This section
3 does not apply to public disclosure of the identity of persons found by
4 the ((board)) commission to have violated state or federal law, rules,
5 or regulations. This section is not intended to restrict the
6 investigations and proceedings of the ((board)) commission so long as
7 the ((board)) commission maintains the confidentiality required by this
8 section.

9 NEW SECTION. Sec. 86. A new section is added to chapter 69.50 RCW
10 to read as follows:

11 "Commission" means the pharmacy quality assurance commission.

12 **Sec. 87.** RCW 69.50.201 and 1998 c 245 s 108 are each amended to
13 read as follows:

14 (a) The ((state board of pharmacy)) commission shall enforce this
15 chapter and may add substances to or delete or reschedule substances
16 listed in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, or 69.50.212
17 pursuant to the procedures of chapter 34.05 RCW.

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

20 (i) the actual or relative potential for abuse;

21 (ii) the scientific evidence of its pharmacological effect, if
22 known;

23 (iii) the state of current scientific knowledge regarding the
24 substance;

25 (iv) the history and current pattern of abuse;

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

27 (vi) the risk to the public health;

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

30 (viii) whether the substance is an immediate precursor of a
31 controlled substance.

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

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

5 (c) The ((~~board~~)) commission, without regard to the findings
6 required by subsection (a) of this section or RCW 69.50.203, 69.50.205,
7 69.50.207, 69.50.209, and 69.50.211 or the procedures prescribed by
8 subsections (a) and (b) of this section, may place an immediate
9 precursor in the same schedule in which the controlled substance of
10 which it is an immediate precursor is placed or in any other schedule.
11 If the ((~~board~~)) commission designates a substance as an immediate
12 precursor, substances that are precursors of the controlled precursor
13 are not subject to control solely because they are precursors of the
14 controlled precursor.

15 (d) If a substance is designated, rescheduled, or deleted as a
16 controlled substance under federal law, the ((~~board~~)) commission shall
17 similarly control the substance under this chapter after the expiration
18 of thirty days from the date of publication in the federal register of
19 a final order designating the substance as a controlled substance or
20 rescheduling or deleting the substance or from the date of issuance of
21 an order of temporary scheduling under Section 508 of the federal
22 Dangerous Drug Diversion Control Act of 1984, 21 U.S.C. Sec. 811(h),
23 unless within that thirty-day period, the ((~~board~~)) commission or an
24 interested party objects to inclusion, rescheduling, temporary
25 scheduling, or deletion. If no objection is made, the ((~~board~~))
26 commission shall adopt and cause to be published, without the necessity
27 of making determinations or findings as required by subsection (a) of
28 this section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and
29 69.50.211, a final rule, for which notice of proposed rule making is
30 omitted, designating, rescheduling, temporarily scheduling, or deleting
31 the substance. If an objection is made, the ((~~board~~)) commission shall
32 make a determination with respect to the designation, rescheduling, or
33 deletion of the substance as provided by subsection (a) of this
34 section. Upon receipt of an objection to inclusion, rescheduling, or
35 deletion under this chapter by the ((~~board~~)) commission, the ((~~board~~))
36 commission shall publish notice of the receipt of the objection, and
37 control under this chapter is stayed until the ((~~board~~)) commission
38 adopts a rule as provided by subsection (a) of this section.

1 (e) The ((~~board~~)) commission, by rule and without regard to the
2 requirements of subsection (a) of this section, may schedule a
3 substance in Schedule I regardless of whether the substance is
4 substantially similar to a controlled substance in Schedule I or II if
5 the ((~~board~~)) commission finds that scheduling of the substance on an
6 emergency basis is necessary to avoid an imminent hazard to the public
7 safety and the substance is not included in any other schedule or no
8 exemption or approval is in effect for the substance under Section 505
9 of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 355. Upon
10 receipt of notice under RCW 69.50.214, the ((~~board~~)) commission shall
11 initiate scheduling of the controlled substance analog on an emergency
12 basis pursuant to this subsection. The scheduling of a substance under
13 this subsection expires one year after the adoption of the scheduling
14 rule. With respect to the finding of an imminent hazard to the public
15 safety, the ((~~board~~)) commission shall consider whether the substance
16 has been scheduled on a temporary basis under federal law or factors
17 set forth in subsection (a)(1)(iv), (v), and (vi) of this section, and
18 may also consider clandestine importation, manufacture, or
19 distribution, and, if available, information concerning the other
20 factors set forth in subsection (a)(1) of this section. A rule may not
21 be adopted under this subsection until the ((~~board~~)) commission
22 initiates a rule-making proceeding under subsection (a) of this section
23 with respect to the substance. A rule adopted under this subsection
24 must be vacated upon the conclusion of the rule-making proceeding
25 initiated under subsection (a) of this section with respect to the
26 substance.

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

30 **Sec. 88.** RCW 69.50.203 and 1993 c 187 s 3 are each amended to read
31 as follows:

32 (a) The ((~~state board of pharmacy~~)) commission shall place a
33 substance in Schedule I upon finding that the substance:

- 34 (1) has high potential for abuse;
35 (2) has no currently accepted medical use in treatment in the
36 United States; and

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

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

8 **Sec. 89.** RCW 69.50.205 and 1993 c 187 s 5 are each amended to read
9 as follows:

10 (a) The ((~~state board of pharmacy~~)) commission shall place a
11 substance in Schedule II upon finding that:

12 (1) the substance has high potential for abuse;

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

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

18 (b) The ((~~state board of pharmacy~~)) commission may place a sub-
19 stance in Schedule II without making the findings required by
20 subsection (a) of this section if the substance is controlled under
21 Schedule II of the federal Controlled Substances Act by a federal
22 agency as the result of an international treaty, convention, or
23 protocol.

24 **Sec. 90.** RCW 69.50.207 and 1993 c 187 s 7 are each amended to read
25 as follows:

26 (a) The ((~~state board of pharmacy~~)) commission shall place a
27 substance in Schedule III upon finding that:

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

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

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

34 (b) The ((~~state board of pharmacy~~)) commission may place a sub-
35 stance in Schedule III without making the findings required by
36 subsection (a) of this section if the substance is controlled under

1 Schedule III of the federal Controlled Substances Act by a federal
2 agency as the result of an international treaty, convention, or
3 protocol.

4 **Sec. 91.** RCW 69.50.208 and 2010 c 177 s 4 are each amended to read
5 as follows:

6 Unless specifically excepted by state or federal law or regulation
7 or more specifically included in another schedule, the following
8 controlled substances are listed in Schedule III:

9 (a) Stimulants. Any material, compound, mixture, or preparation
10 containing any quantity of the following substances having a stimulant
11 effect on the central nervous system, including their salts, isomers,
12 whether optical, position, or geometric, and salts of isomers whenever
13 the existence of those salts, isomers, and salts of isomers is possible
14 within the specific chemical designation:

15 (1) Any compound, mixture, or preparation in dosage unit form
16 containing any stimulant substance included in Schedule II and which
17 was listed as an excepted compound on August 25, 1971, pursuant to the
18 federal Controlled Substances Act, and any other drug of the
19 quantitative composition shown in that list for those drugs or which is
20 the same except for containing a lesser quantity of controlled
21 substances;

22 (2) Benzphetamine;

23 (3) Chlorphentermine;

24 (4) Clortermine;

25 (5) Phendimetrazine.

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

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

31 (i) Amobarbital;

32 (ii) Secobarbital;

33 (iii) Pentobarbital;

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

36 (2) Any suppository dosage form containing:

37 (i) Amobarbital;

1 (ii) Secobarbital;
2 (iii) Pentobarbital;
3 or any salt of any of these drugs and approved by the Food and Drug
4 Administration for marketing only as a suppository;
5 (3) Any substance which contains any quantity of a derivative of
6 barbituric acid, or any salt of a derivative of barbituric acid;
7 (4) Chlorhexadol;
8 (5) Embutramide;
9 (6) Any drug product containing gamma hydroxybutyric acid,
10 including its salts, isomers, and salts of isomers, for which an
11 application is approved under section 505 of the federal food, drug,
12 and cosmetic act;
13 (7) Ketamine, its salts, isomers, and salts of isomers, some other
14 names for ketamine: (<plus-minus>)-2-(2-chlorophenyl)-2-(methylamino)-
15 cyclohexanone;
16 (8) Lysergic acid;
17 (9) Lysergic acid amide;
18 (10) Methyprylon;
19 (11) Sulfondiethylmethane;
20 (12) Sulfonethylmethane;
21 (13) Sulfonmethane;
22 (14) Tiletamine and zolazepam or any of their salts—some trade or
23 other names for a tiletamine-zolazepam combination product: Telazol,
24 some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)
25 cyclohexanone, some trade or other names for zolazepam: 4-(2-
26 fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-
27 diazepam-7(1H)-one flupyrazapon.
28 (c) Nalorphine.
29 (d) Narcotic drugs. Unless specifically excepted or unless listed
30 in another schedule, any material, compound, mixture, or preparation
31 containing limited quantities of any of the following narcotic drugs,
32 or any salts thereof calculated as the free anhydrous base or alkaloid,
33 in limited quantities as set forth in this subsection:
34 (1) Not more than 1.8 grams of codeine per 100 milliliters or not
35 more than 90 milligrams per dosage unit, with an equal or greater
36 quantity of an isoquinoline alkaloid of opium;
37 (2) Not more than 1.8 grams of codeine per 100 milliliters or not

1 more than 90 milligrams per dosage unit, with one or more active,
2 nonnarcotic ingredients in recognized therapeutic amounts;

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

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

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

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

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

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

24 (e) Any material, compound, mixture, or preparation containing any
25 of the following narcotic drugs or their salts: Buprenorphine.

26 (f) Hallucinogenic substances. Dronabinol (synthetic) in sesame
27 oil and encapsulated in a soft gelatin capsule in a United States food
28 and drug administration approved product. Some other names for
29 dronabinol: [6a R-trans]-6a,7,8, 10a-tetrahydro-6,6,9-trimethyl-3-
30 pentyl-6H-dibenzo[b,d] pyran-i-ol, or (-)-delta-9-(trans)-
31 tetrahydrocannabinol.

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

36 (1) $3\beta,17$ -dihydroxy-5 α -androstane;

37 (2) $3\alpha,17\beta$ -dihydroxy-5 α -androstane;

38 (3) 5α -androstan-3,17-dione;

1 (4) 1-androstenediol (3 β ,17 β -dihydroxy-5 α -androst-1-ene);
2 (5) 1-androstenediol (3 α ,17 β -dihydroxy-5 α -androst-1-ene);
3 (6) 4-androstenediol (3 β ,17 β -dihydroxy-androst-4-ene);
4 (7) 5-androstenediol (3 β ,17 β -dihydroxy-androst-5-ene);
5 (8) 1-androstenedione ([5 α]-androst-1-en-3,17-dione);
6 (9) 4-androstenedione (androst-4-en-3,17-dione);
7 (10) 5-androstenedione (androst-5-en-3,17-dione);
8 (11) Bolasterone (7 α ,17 α -dimethyl-17 β -hydroxyandrost-4-en-3-one);
9 (12) Boldenone (17 β -hydroxyandrost-1,4,-diene-3-one);
10 (13) Calusterone (7 β ,17 α -dimethyl-17 β -hydroxyandrost-4-en-3-one);
11 (14) Clostebol (4-chloro-17 β -hydroxyandrost-4-en-3-one);
12 (15) Dehydrochloromethyltestosterone (4-chloro-17 β -hydroxy-17 α -
13 methyl-androst-1,4-dien-3-one);
14 (16) Δ 1-dihydrotestosterone (a.k.a. '1-testosterone') (17 β -hydroxy-
15 5 α -androst-1-en-3-one);
16 (17) 4-dihydrotestosterone (17 β -hydroxy-androstan-3-one);
17 (18) Drostanolone (17 β -hydroxy-2 α -methyl-5 α -androstan-3-one);
18 (19) Ethylestrenol (17 α -ethyl-17 β -hydroxyestr-4-ene);
19 (20) Fluoxymesterone (9-fluoro-17 α -methyl-11 β ,17 β -dihydroxyandrost-
20 4-en-3-one);
21 (21) Formebolone (2-formyl-17 α -methyl-11 α ,17 β -dihydroxyandrost-
22 1,4-dien-3-one);
23 (22) Furazabol (17 α -methyl-17 β -hydroxyandrostan[2,3-c]-furan);
24 (23) 13 β -ethyl-17 β -hydroxygon-4-en-3-one;
25 (24) 4-hydroxytestosterone (4,17 β -dihydroxy-androst-4-en-3-one);
26 (25) 4-hydroxy-19-nortestosterone (4,17 β -dihydroxy-estr-4-en-3-
27 one);
28 (26) Mestanolone (17 α -methyl-17 β -hydroxy-5-androstan-3-one);
29 (27) Mesterolone (1 α methyl-17 β -hydroxy-[5 α]-androstan-3-one);
30 (28) Methandienone (17 α -methyl-17 β -hydroxyandrost-1,4-dien-3-one);
31 (29) Methandriol (17 α -methyl-3 β ,17 β -dihydroxyandrost-5-ene);
32 (30) Methenolone (1-methyl-17 β -hydroxy-5 α -androst-1-en-3-one);
33 (31) 17 α -methyl-3 β ,17 β -dihydroxy-5 α -androstane;
34 (32) 17 α -methyl-3 α ,17 β -dihydroxy-5 α -androstane;
35 (33) 17 α -methyl-3 β ,17 β -dihydroxyandrost-4-ene;
36 (34) 17 α -methyl-4-hydroxynandrolone (17 α -methyl-4-hydroxy-17 β -
37 hydroxyestr-4-en-3-one);

1 (35) Methyldienolone (17 α -methyl-17 β -hydroxyestra-4,9(10)-dien-3-
2 one);
3 (36) Methyltrienolone (17 α -methyl-17 β -hydroxyestra-4,9-11-trien-3-
4 one);
5 (37) Methyltestosterone (17 α -methyl-17 β -hydroxyandrost-4-en-3-one);
6 (38) Mibolerone (7 α ,17 α -dimethyl-17 β -hydroxyestr-4-en-3-one);
7 (39) 17 α -methyl- Δ 1-dihydrotestosterone (17 β -hydroxy-17 α -methyl-
8 5 α -androst-1-en-3-one) (also known as '17- α -methyl-1-testosterone');
9 (40) Nandrolone (17 β -hydroxyestr-4-en-3-one);
10 (41) 19-nor-4-androstenediol (3 β , 17 β -dihydroxyestr-4-ene);
11 (42) 19-nor-4-androstenediol (3 α , 17 β -dihydroxyestr-4-ene);
12 (43) 19-nor-5-androstenediol (3 β , 17 β -dihydroxyestr-5-ene);
13 (44) 19-nor-5-androstenediol (3 α , 17 β -dihydroxyestr-5-ene);
14 (45) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
15 (46) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
16 (47) Norbolethone (13 β , 17 α -diethyl-17 β -hydroxygon-4-en-3-one);
17 (48) Norclostebol (4-chloro-17 β -hydroxyestr-4-en-3-one);
18 (49) Norethandrolone (17 α -ethyl-17 β -hydroxyestr-4-en-3-one);
19 (50) Normethandrolone (17 α -methyl-17 β -hydroxyestr-4-en-3-one);
20 (51) Oxandrolone (17 α -methyl-17 β -hydroxy-2-oxa-[5 α]-androstan-3-
21 one);
22 (52) Oxymesterone (17 α -methyl-4,17 β -dihydroxyandrost-4-en-3-one);
23 (53) Oxymetholone (17 α -methyl-2-hydroxymethylene-17 β -hydroxy-[5 α]-
24 androstan-3-one);
25 (54) Stanozolol (17 α -methyl-17 β -hydroxy-[5 α]-androst-2-eno[3,2-c]-
26 pyrazole);
27 (55) Stenbolone (17 β -hydroxy-2-methyl-[5 α]-androst-1-en-3-one);
28 (56) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-
29 oic acid lactone);
30 (57) Testosterone (17 β -hydroxyandrost-4-en-3-one);
31 (58) Tetrahydrogestrinone (13 β , 17 α -diethyl-17 β -hydroxygon-4,9,11-
32 trien-3-one);
33 (59) Trenbolone (17 β -hydroxyestr-4,9,11-trien-3-one); and
34 (60) Any salt, ester, or ether of a drug or substance described in
35 this section. Such term does not include an anabolic steroid that is
36 expressly intended for administration through implants to cattle or
37 other nonhuman species and that has been approved by the secretary of
38 the department of health and human services for such administration.

1 If any person prescribes, dispenses, or distributes such steroid for
2 human use, the person shall be considered to have prescribed,
3 dispensed, or distributed an anabolic steroid within the meaning of
4 this section.

5 The (~~state board of pharmacy~~) commission may except by rule any
6 compound, mixture, or preparation containing any stimulant or
7 depressant substance listed in subsection (a)(1) and (2) of this
8 section from the application of all or any part of this chapter if the
9 compound, mixture, or preparation contains one or more active medicinal
10 ingredients not having a stimulant or depressant effect on the central
11 nervous system, and if the admixtures are in combinations, quantity,
12 proportion, or concentration that vitiate the potential for abuse of
13 the substances having a stimulant or depressant effect on the central
14 nervous system.

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

17 **Sec. 92.** RCW 69.50.209 and 1993 c 187 s 9 are each amended to read
18 as follows:

19 (a) The (~~state board of pharmacy~~) commission shall place a
20 substance in Schedule IV upon finding that:

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

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

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

28 (b) The (~~state board of pharmacy~~) commission may place a sub-
29 stance in Schedule IV without making the findings required by
30 subsection (a) of this section if the substance is controlled under
31 Schedule IV of the federal Controlled Substances Act by a federal
32 agency as the result of an international treaty, convention, or
33 protocol.

34 **Sec. 93.** RCW 69.50.210 and 2010 c 177 s 5 are each amended to read
35 as follows:

1 Unless specifically excepted by state or federal law or regulation
2 or more specifically included in another schedule, the following
3 controlled substances are listed in Schedule IV:

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

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

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

11 (b) Depressants. Unless specifically excepted or unless listed in
12 another schedule, any material, compound, mixture, or preparation
13 containing any quantity of the following substances having a depressant
14 effect on the central nervous system, including their salts, isomers,
15 and salts of isomers whenever the existence of those salts, isomers,
16 and salts of isomers is possible within the specific chemical
17 designation:

- 18 (1) Alprazolam;
- 19 (2) Barbital;
- 20 (3) Bromazepam;
- 21 (4) Camazepam;
- 22 (5) Carisoprodol;
- 23 (6) Chloral betaine;
- 24 (7) Chloral hydrate;
- 25 (8) Chlordiazepoxide;
- 26 (9) Clobazam;
- 27 (10) Clonazepam;
- 28 (11) Clorazepate;
- 29 (12) Clotiazepam;
- 30 (13) Cloxazolam;
- 31 (14) Delorazepam;
- 32 (15) Diazepam;
- 33 (16) Dichloralphenazone;
- 34 (17) Estazolam;
- 35 (18) Ethchlorvynol;
- 36 (19) Ethinamate;
- 37 (20) Ethyl loflazepate;
- 38 (21) Fludiazepam;

- 1 (22) Flunitrazepam;
- 2 (23) Flurazepam;
- 3 (24) Halazepam;
- 4 (25) Haloxazolam;
- 5 (26) Ketazolam;
- 6 (27) Loprazolam;
- 7 (28) Lorazepam;
- 8 (29) Lormetazepam;
- 9 (30) Mebutamate;
- 10 (31) Medazepam;
- 11 (32) Meprobamate;
- 12 (33) Methohexital;
- 13 (34) Methylphenobarbital (mephobarbital);
- 14 (35) Midazolam;
- 15 (36) Nimetazepam;
- 16 (37) Nitrazepam;
- 17 (38) Nordiazepam;
- 18 (39) Oxazepam;
- 19 (40) Oxazolam;
- 20 (41) Paraldehyde;
- 21 (42) Petrichloral;
- 22 (43) Phenobarbital;
- 23 (44) Pinazepam;
- 24 (45) Prazepam;
- 25 (46) Quazepam;
- 26 (47) Temazepam;
- 27 (48) Tetrazepam;
- 28 (49) Triazolam;
- 29 (50) Zaleplon;
- 30 (51) Zolpidem; and
- 31 (52) Zopiclone.

32 (c) Fenfluramine. Any material, compound, mixture, or preparation
33 containing any quantity of the following substance, including its
34 salts, isomers, and salts of such isomers, whenever the existence of
35 such salts, isomers, and salts of isomers is possible: Fenfluramine.

36 (d) Stimulants. Unless specifically excepted or unless listed in
37 another schedule, any material, compound, mixture, or preparation

1 containing any quantity of the following substances having a stimulant
2 effect on the central nervous system, including their salts, isomers,
3 and salts of isomers:

- 4 (1) Cathine((+)norpseudoephedrine);
- 5 (2) Diethylpropion;
- 6 (3) Fencamfamin;
- 7 (4) Fenproporex;
- 8 (5) Mazindol;
- 9 (6) Mefenorex;
- 10 (7) Modafinil;
- 11 (8) Pemoline (including organometallic complexes and chelates
12 thereof);
- 13 (9) Phentermine;
- 14 (10) Pipradrol;
- 15 (11) Sibutramine;
- 16 (12) SPA ((-)-1-dimethylamino-1, 2-dephenylethane).

17 (e) Other substances. Unless specifically excepted or unless
18 listed in another schedule, any material, compound, mixture, or
19 preparation containing any quantity of the following substance,
20 including its salts:

- 21 (1) Pentazocine;
- 22 (2) Butorphanol, including its optical isomers.

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

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

34 **Sec. 94.** RCW 69.50.211 and 1993 c 187 s 11 are each amended to
35 read as follows:

36 (a) The ((~~state board of pharmacy~~)) commission shall place a
37 substance in Schedule V upon finding that:

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

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

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

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

14 **Sec. 95.** RCW 69.50.213 and 1993 c 187 s 13 are each amended to
15 read as follows:

16 The (~~state board of pharmacy~~) commission shall publish updated
17 schedules annually. Failure to publish updated schedules is not a
18 defense in any administrative or judicial proceeding under this
19 chapter.

20 **Sec. 96.** RCW 69.50.214 and 1993 c 187 s 14 are each amended to
21 read as follows:

22 A controlled substance analog, to the extent intended for human
23 consumption, shall be treated, for the purposes of this chapter, as a
24 substance included in Schedule I. Within thirty days after the
25 initiation of prosecution with respect to a controlled substance analog
26 by indictment or information, the prosecuting attorney shall notify the
27 (~~state board of pharmacy~~) commission of information relevant to
28 emergency scheduling as provided for in RCW 69.50.201(~~(+f)~~) (e).
29 After final determination that the controlled substance analog should
30 not be scheduled, no prosecution relating to that substance as a con-
31 trolled substance analog may continue or take place.

32 **Sec. 97.** RCW 69.50.301 and 1993 c 187 s 15 are each amended to
33 read as follows:

34 The (~~board~~) commission may adopt rules and the department may

1 charge reasonable fees, relating to the registration and control of the
2 manufacture, distribution, and dispensing of controlled substances
3 within this state.

4 **Sec. 98.** RCW 69.50.302 and 2011 c 336 s 839 are each amended to
5 read as follows:

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

11 (b) A person registered by the department under this chapter to
12 manufacture, distribute, dispense, or conduct research with controlled
13 substances may possess, manufacture, distribute, dispense, or conduct
14 research with those substances to the extent authorized by the
15 registration and in conformity with this Article.

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

18 (1) An agent or employee of any registered manufacturer,
19 distributor, or dispenser of any controlled substance if the agent or
20 employee is acting in the usual course of business or employment. This
21 exemption shall not include any agent or employee distributing sample
22 controlled substances to practitioners without an order;

23 (2) A common or contract carrier or warehouse operator, or an
24 employee thereof, whose possession of any controlled substance is in
25 the usual course of business or employment;

26 (3) An ultimate user or a person in possession of any controlled
27 substance pursuant to a lawful order of a practitioner or in lawful
28 possession of a substance included in Schedule V.

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

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

4 (f) The department may inspect the establishment of a registrant or
5 applicant for registration in accordance with rules adopted by the
6 ((board)) commission.

7 **Sec. 99.** RCW 69.50.303 and 1993 c 187 s 17 are each amended to
8 read as follows:

9 (a) The department shall register an applicant to manufacture or
10 distribute controlled substances included in RCW 69.50.204, 69.50.206,
11 69.50.208, 69.50.210, and 69.50.212 unless the ((board)) commission
12 determines that the issuance of that registration would be inconsistent
13 with the public interest. In determining the public interest, the
14 ((board)) commission shall consider the following factors:

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

18 (2) compliance with applicable state and local law;

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

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

23 (5) past experience in the manufacture or distribution of
24 controlled substances, and the existence in the applicant's
25 establishment of effective controls against diversion of controlled
26 substances into other than legitimate medical, scientific, research, or
27 industrial channels;

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

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

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

35 (b) Registration under subsection (a) of this section does not
36 entitle a registrant to manufacture or distribute controlled substances

1 included in Schedule I or II other than those specified in the
2 registration.

3 (c) Practitioners must be registered, or exempted under RCW
4 69.50.302(d), to dispense any controlled substances or to conduct
5 research with controlled substances included in Schedules II through V
6 if they are authorized to dispense or conduct research under the law of
7 this state. The ((board)) commission need not require separate
8 registration under this Article for practitioners engaging in research
9 with nonnarcotic substances included in Schedules II through V where
10 the registrant is already registered under this Article in another
11 capacity. Practitioners registered under federal law to conduct
12 research with substances included in Schedule I may conduct research
13 with substances included in Schedule I within this state upon
14 furnishing the ((board)) commission evidence of that federal
15 registration.

16 (d) A manufacturer or distributor registered under the federal
17 Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., may submit a
18 copy of the federal application as an application for registration as
19 a manufacturer or distributor under this section. The ((board))
20 commission may require a manufacturer or distributor to submit
21 information in addition to the application for registration under the
22 federal act.

23 **Sec. 100.** RCW 69.50.304 and 1993 c 187 s 18 are each amended to
24 read as follows:

25 (a) A registration, or exemption from registration, under RCW
26 69.50.303 to manufacture, distribute, or dispense a controlled
27 substance may be suspended or revoked by the ((state board of
28 pharmacy)) commission upon finding that the registrant has:

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

31 (2) been convicted of a felony under any state or federal law
32 relating to any controlled substance;

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

36 (4) committed acts that would render registration under RCW

1 69.50.303 inconsistent with the public interest as determined under
2 that section.

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

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

16 (d) The department may seize or place under seal any controlled
17 substance owned or possessed by a registrant whose registration has
18 expired or who has ceased to practice or do business in the manner
19 contemplated by the registration. The controlled substance must be
20 held for the benefit of the registrant or the registrant's successor in
21 interest. The department shall notify a registrant, or the
22 registrant's successor in interest, who has any controlled substance
23 seized or placed under seal, of the procedures to be followed to secure
24 the return of the controlled substance and the conditions under which
25 it will be returned. The department may not dispose of any controlled
26 substance seized or placed under seal under this subsection until the
27 expiration of one hundred eighty days after the controlled substance
28 was seized or placed under seal. The costs incurred by the department
29 in seizing, placing under seal, maintaining custody, and disposing of
30 any controlled substance under this subsection may be recovered from
31 the registrant, any proceeds obtained from the disposition of the
32 controlled substance, or from both. Any balance remaining after the
33 costs have been recovered from the proceeds of any disposition must be
34 delivered to the registrant or the registrant's successor in interest.

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

1 **Sec. 101.** RCW 69.50.305 and 1971 ex.s. c 308 s 69.50.305 are each
2 amended to read as follows:

3 (a) Any registration, or exemption from registration, issued
4 pursuant to the provisions of this chapter shall not be denied,
5 suspended, or revoked unless the ((board)) commission denies, suspends,
6 or revokes such registration, or exemption from registration, by
7 proceedings consistent with the administrative procedure act, chapter
8 34.05 RCW.

9 (b) The ((board)) commission may suspend any registration
10 simultaneously with the institution of proceedings under RCW 69.50.304,
11 or where renewal of registration is refused, if it finds that there is
12 an imminent danger to the public health or safety which warrants this
13 action. The suspension shall continue in effect until the conclusion
14 of the proceedings, including judicial review thereof, unless sooner
15 withdrawn by the ((board)) commission or dissolved by a court of
16 competent jurisdiction.

17 **Sec. 102.** RCW 69.50.306 and 1971 ex.s. c 308 s 69.50.306 are each
18 amended to read as follows:

19 Persons registered, or exempted from registration under RCW
20 69.50.302(d), to manufacture, distribute, dispense, or administer
21 controlled substances under this chapter shall keep records and
22 maintain inventories in conformance with the recordkeeping and
23 inventory requirements of federal law and with any additional rules the
24 ((state board of pharmacy)) commission issues.

25 **Sec. 103.** RCW 69.50.308 and 2012 c 10 s 46 are each amended to
26 read as follows:

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

29 (b) Except when dispensed directly by a practitioner authorized to
30 prescribe or administer a controlled substance, other than a pharmacy,
31 to an ultimate user, a substance included in Schedule II may not be
32 dispensed without the written prescription of a practitioner.

33 (1) Schedule II narcotic substances may be dispensed by a pharmacy
34 pursuant to a facsimile prescription under the following circumstances:

35 (i) The facsimile prescription is transmitted by a practitioner to
36 the pharmacy; and

1 (ii) The facsimile prescription is for a patient in a long-term
2 care facility. "Long-term care facility" means nursing homes licensed
3 under chapter 18.51 RCW, assisted living facilities licensed under
4 chapter 18.20 RCW, and adult family homes licensed under chapter 70.128
5 RCW; or

6 (iii) The facsimile prescription is for a patient of a hospice
7 program certified or paid for by medicare under Title XVIII; or

8 (iv) The facsimile prescription is for a patient of a hospice
9 program licensed by the state; and

10 (v) The practitioner or the practitioner's agent notes on the
11 facsimile prescription that the patient is a long-term care or hospice
12 patient.

13 (2) Injectable Schedule II narcotic substances that are to be
14 compounded for patient use may be dispensed by a pharmacy pursuant to
15 a facsimile prescription if the facsimile prescription is transmitted
16 by a practitioner to the pharmacy.

17 (3) Under (1) and (2) of this subsection the facsimile prescription
18 shall serve as the original prescription and shall be maintained as
19 other Schedule II narcotic substances prescriptions.

20 (c) In emergency situations, as defined by rule of the (~~state~~
21 ~~board of pharmacy~~) commission, a substance included in Schedule II may
22 be dispensed upon oral prescription of a practitioner, reduced promptly
23 to writing and filed by the pharmacy. Prescriptions shall be retained
24 in conformity with the requirements of RCW 69.50.306. A prescription
25 for a substance included in Schedule II may not be refilled.

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

35 (e) A valid prescription or lawful order of a practitioner, in
36 order to be effective in legalizing the possession of controlled
37 substances, must be issued in good faith for a legitimate medical
38 purpose by one authorized to prescribe the use of such controlled

1 substance. An order purporting to be a prescription not in the course
2 of professional treatment is not a valid prescription or lawful order
3 of a practitioner within the meaning and intent of this chapter; and
4 the person who knows or should know that the person is filling such an
5 order, as well as the person issuing it, can be charged with a
6 violation of this chapter.

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

9 (g) A practitioner may dispense or deliver a controlled substance
10 to or for an individual or animal only for medical treatment or
11 authorized research in the ordinary course of that practitioner's
12 profession. Medical treatment includes dispensing or administering a
13 narcotic drug for pain, including intractable pain.

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

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

22 **Sec. 104.** RCW 69.50.310 and 1989 1st ex.s. c 9 s 435 are each
23 amended to read as follows:

24 On and after September 21, 1977, a humane society and animal
25 control agency may apply to the department for registration pursuant to
26 the applicable provisions of this chapter for the sole purpose of being
27 authorized to purchase, possess, and administer sodium pentobarbital to
28 euthanize injured, sick, homeless, or unwanted domestic pets and
29 animals. Any agency so registered shall not permit a person to
30 administer sodium pentobarbital unless such person has demonstrated
31 adequate knowledge of the potential hazards and proper techniques to be
32 used in administering this drug.

33 The department may issue a limited registration to carry out the
34 provisions of this section. The ((board)) commission shall promulgate
35 such rules as it deems necessary to insure strict compliance with the
36 provisions of this section. The ((board)) commission may suspend or
37 revoke registration upon determination that the person administering

1 sodium pentobarbital has not demonstrated adequate knowledge as herein
2 provided. This authority is granted in addition to any other power to
3 suspend or revoke registration as provided by law.

4 **Sec. 105.** RCW 69.50.312 and 1998 c 222 s 4 are each amended to
5 read as follows:

6 (1) Information concerning an original prescription or information
7 concerning a prescription refill for a controlled substance may be
8 electronically communicated to a pharmacy of the patient's choice
9 pursuant to the provisions of this chapter if the electronically
10 communicated prescription information complies with the following:

11 (a) Electronically communicated prescription information must
12 comply with all applicable statutes and rules regarding the form,
13 content, recordkeeping, and processing of a prescription for a legend
14 drug;

15 (b) The system used for transmitting electronically communicated
16 prescription information and the system used for receiving
17 electronically communicated prescription information must be approved
18 by the ((board)) commission. This subsection does not apply to
19 currently used facsimile equipment transmitting an exact visual image
20 of the prescription. The ((board)) commission shall maintain and
21 provide, upon request, a list of systems used for electronically
22 communicating prescription information currently approved by the
23 ((board)) commission;

24 (c) An explicit opportunity for practitioners must be made to
25 indicate their preference on whether a therapeutically equivalent
26 generic drug may be substituted;

27 (d) Prescription drug orders are confidential health information,
28 and may be released only to the patient or the patient's authorized
29 representative, the prescriber or other authorized practitioner then
30 caring for the patient, or other persons specifically authorized by law
31 to receive such information;

32 (e) To maintain confidentiality of prescription records, the
33 electronic system shall have adequate security and systems safeguards
34 designed to prevent and detect unauthorized access, modification, or
35 manipulation of these records. The pharmacist in charge shall
36 establish or verify the existence of policies and procedures which
37 ensure the integrity and confidentiality of prescription information

1 transmitted to the pharmacy by electronic means. All managers,
2 employees, and agents of the pharmacy are required to read, sign, and
3 comply with the established policies and procedures; and

4 (f) The pharmacist shall exercise professional judgment regarding
5 the accuracy, validity, and authenticity of the prescription drug order
6 received by way of electronic transmission, consistent with federal and
7 state laws and rules and guidelines of the ((board)) commission.

8 (2) The ((board)) commission may adopt rules implementing this
9 section.

10 **Sec. 106.** RCW 69.50.320 and 2003 c 175 s 2 are each amended to
11 read as follows:

12 The department of fish and wildlife may apply to the department of
13 health for registration pursuant to the applicable provisions of this
14 chapter to purchase, possess, and administer controlled substances for
15 use in chemical capture programs. The department of fish and wildlife
16 must not permit a person to administer controlled substances unless the
17 person has demonstrated adequate knowledge of the potential hazards and
18 proper techniques to be used in administering controlled substances.

19 The department of health may issue a limited registration to carry
20 out the provisions of this section. The ((board)) commission may adopt
21 rules to ensure strict compliance with the provisions of this section.
22 The ((board)) commission, in consultation with the department of fish
23 and wildlife, must by rule add or remove additional controlled
24 substances for use in chemical capture programs. The ((board))
25 commission shall suspend or revoke registration upon determination that
26 the person administering controlled substances has not demonstrated
27 adequate knowledge as required by this section. This authority is
28 granted in addition to any other power to suspend or revoke
29 registration as provided by law.

30 **Sec. 107.** RCW 69.50.402 and 2010 c 177 s 7 are each amended to
31 read as follows:

32 (1) It is unlawful for any person:

33 (a) Who is subject to Article III to distribute or dispense a
34 controlled substance in violation of RCW 69.50.308;

35 (b) Who is a registrant, to manufacture a controlled substance not

1 authorized by his or her registration, or to distribute or dispense a
2 controlled substance not authorized by his or her registration to
3 another registrant or other authorized person;

4 (c) Who is a practitioner, to prescribe, order, dispense,
5 administer, supply, or give to any person:

6 (i) Any amphetamine, including its salts, optical isomers, and
7 salts of optical isomers classified as a schedule II controlled
8 substance by the (~~board of pharmacy~~) commission pursuant to chapter
9 34.05 RCW; or

10 (ii) Any nonnarcotic stimulant classified as a schedule II
11 controlled substance and designated as a nonnarcotic stimulant by the
12 (~~board of pharmacy~~) commission pursuant to chapter 34.05 RCW;

13 except for the treatment of narcolepsy or for the treatment of
14 hyperkinesia, or for the treatment of drug-induced brain dysfunction,
15 or for the treatment of epilepsy, or for the differential diagnostic
16 psychiatric evaluation of depression, or for the treatment of
17 depression shown to be refractory to other therapeutic modalities, or
18 for the treatment of multiple sclerosis, or for the clinical
19 investigation of the effects of such drugs or compounds, in which case
20 an investigative protocol therefor shall have been submitted to and
21 reviewed and approved by the (~~state board of pharmacy~~) commission
22 before the investigation has been begun: PROVIDED, That the (~~board of~~
23 ~~pharmacy~~) commission, in consultation with the medical quality
24 assurance commission and the osteopathic disciplinary board, may
25 establish by rule, pursuant to chapter 34.05 RCW, disease states or
26 conditions in addition to those listed in this subsection for the
27 treatment of which Schedule II nonnarcotic stimulants may be
28 prescribed, ordered, dispensed, administered, supplied, or given to
29 patients by practitioners: AND PROVIDED, FURTHER, That investigations
30 by the (~~board of pharmacy~~) commission of abuse of prescriptive
31 authority by physicians, licensed pursuant to chapter 18.71 RCW,
32 pursuant to subsection (1)(c) of this section shall be done in
33 consultation with the medical quality assurance commission;

34 (d) To refuse or fail to make, keep or furnish any record,
35 notification, order form, statement, invoice, or information required
36 under this chapter;

37 (e) To refuse an entry into any premises for any inspection
38 authorized by this chapter; or

1 (f) Knowingly to keep or maintain any store, shop, warehouse,
2 dwelling, building, vehicle, boat, aircraft, or other structure or
3 place, which is resorted to by persons using controlled substances in
4 violation of this chapter for the purpose of using these substances, or
5 which is used for keeping or selling them in violation of this chapter.

6 (2) Any person who violates this section is guilty of a class C
7 felony and upon conviction may be imprisoned for not more than two
8 years, fined not more than two thousand dollars, or both.

9 **Sec. 108.** RCW 69.50.501 and 1971 ex.s. c 308 s 69.50.501 are each
10 amended to read as follows:

11 The (~~state board of pharmacy~~) commission may make administrative
12 inspections of controlled premises in accordance with the following
13 provisions:

14 (1) For purposes of this section only, "controlled premises" means:

15 (a) places where persons registered or exempted from registration
16 requirements under this chapter are required to keep records; and

17 (b) places including factories, warehouses, establishments, and
18 conveyances in which persons registered or exempted from registration
19 requirements under this chapter are permitted to hold, manufacture,
20 compound, process, sell, deliver, or otherwise dispose of any
21 controlled substance.

22 (2) When authorized by an administrative inspection warrant issued
23 pursuant to RCW 69.50.502 an officer or employee designated by the
24 (~~board~~) commission, upon presenting the warrant and appropriate
25 credentials to the owner, operator, or agent in charge, may enter
26 controlled premises for the purpose of conducting an administrative
27 inspection.

28 (3) When authorized by an administrative inspection warrant, an
29 officer or employee designated by the (~~board~~) commission may:

30 (a) inspect and copy records required by this chapter to be kept;

31 (b) inspect, within reasonable limits and in a reasonable manner,
32 controlled premises and all pertinent equipment, finished and
33 unfinished material, containers and labeling found therein, and, except
34 as provided in subsection (5) of this section, all other things
35 therein, including records, files, papers, processes, controls, and
36 facilities bearing on violation of this chapter; and

1 (c) inventory any stock of any controlled substance therein and
2 obtain samples thereof;

3 (4) This section does not prevent the inspection without a warrant
4 of books and records pursuant to an administrative subpoena issued in
5 accordance with chapter 34.05 RCW, nor does it prevent entries and
6 administrative inspections, including seizures of property, without a
7 warrant:

8 (a) if the owner, operator, or agent in charge of the controlled
9 premises consents;

10 (b) in situations presenting imminent danger to health or safety;

11 (c) in situations involving inspection of conveyances if there is
12 reasonable cause to believe that the mobility of the conveyance makes
13 it impracticable to obtain a warrant;

14 (d) in any other exceptional or emergency circumstance where time
15 or opportunity to apply for a warrant is lacking; or,

16 (e) in all other situations in which a warrant is not
17 constitutionally required;

18 (5) An inspection authorized by this section shall not extend to
19 financial data, sales data, other than shipment data, or pricing data
20 unless the owner, operator, or agent in charge of the controlled
21 premises consents in writing.

22 **Sec. 109.** RCW 69.50.504 and 1971 ex.s. c 308 s 69.50.504 are each
23 amended to read as follows:

24 The (~~state board of pharmacy~~) commission shall cooperate with
25 federal and other state agencies in discharging its responsibilities
26 concerning traffic in controlled substances and in suppressing the
27 abuse of controlled substances.

28 **Sec. 110.** RCW 69.50.507 and 2012 c 117 s 371 are each amended to
29 read as follows:

30 All final determinations, findings, and conclusions of the (~~state
31 board of pharmacy~~) commission under this chapter are final and
32 conclusive decisions of the matters involved. Any person aggrieved by
33 the decision may obtain review of the decision in the superior court
34 wherein he or she resides or in the superior court of Thurston county,
35 such review to be in conformity with the administrative procedure act,
36 chapter 34.05 RCW.

1 **Sec. 111.** RCW 69.50.508 and 1971 ex.s. c 308 s 69.50.508 are each
2 amended to read as follows:

3 (a) The ((~~state board of pharmacy~~)) commission may carry out
4 educational programs designed to prevent and deter misuse and abuse of
5 controlled substances. In connection with these programs it may:

6 (1) promote better recognition of the problems of misuse and abuse
7 of controlled substances within the regulated industry and among
8 interested groups and organizations;

9 (2) assist the regulated industry and interested groups and
10 organizations in contributing to the reduction of misuse and abuse of
11 controlled substances;

12 (3) consult with interested groups and organizations to aid them in
13 solving administrative and organizational problems;

14 (4) evaluate procedures, projects, techniques, and controls
15 conducted or proposed as part of educational programs on misuse and
16 abuse of controlled substances;

17 (5) disseminate the results of research on misuse and abuse of
18 controlled substances to promote a better public understanding of what
19 problems exist and what can be done to combat them; and

20 (6) assist in the education and training of state and local law
21 enforcement officials in their efforts to control misuse and abuse of
22 controlled substances.

23 (b) The ((~~board~~)) commission may encourage research on misuse and
24 abuse of controlled substances. In connection with the research, and
25 in furtherance of the enforcement of this chapter, it may:

26 (1) establish methods to assess accurately the effects of
27 controlled substances and identify and characterize those with
28 potential for abuse;

29 (2) make studies and undertake programs of research to:

30 (i) develop new or improved approaches, techniques, systems,
31 equipment and devices to strengthen the enforcement of this chapter;

32 (ii) determine patterns of misuse and abuse of controlled
33 substances and the social effects thereof; and,

34 (iii) improve methods for preventing, predicting, understanding and
35 dealing with the misuse and abuse of controlled substances; and,

36 (3) enter into contracts with public agencies, institutions of
37 higher education, and private organizations or individuals for the

1 purpose of conducting research, demonstrations, or special projects
2 which bear directly on misuse and abuse of controlled substances.

3 (c) The (~~board~~) commission may enter into contracts for
4 educational and research activities without performance bonds.

5 (d) The (~~board~~) commission may authorize persons engaged in
6 research on the use and effects of controlled substances to withhold
7 the names and other identifying characteristics of individuals who are
8 the subjects of the research. Persons who obtain this authorization
9 are not compelled in any civil, criminal, administrative, legislative,
10 or other proceeding to identify the individuals who are the subjects of
11 research for which the authorization was obtained.

12 (e) The (~~board~~) commission may authorize the possession and
13 distribution of controlled substances by persons engaged in research.
14 Persons who obtain this authorization are exempt from state prosecution
15 for possession and distribution of controlled substances to the extent
16 of the authorization.

17 **Sec. 112.** RCW 69.50.601 and 1971 ex.s. c 308 s 69.50.601 are each
18 amended to read as follows:

19 (a) Prosecution for any violation of law occurring prior to May 21,
20 1971 is not affected or abated by this chapter. If the offense being
21 prosecuted is similar to one set out in Article IV of this chapter,
22 then the penalties under Article IV apply if they are less than those
23 under prior law.

24 (b) Civil seizures or forfeitures and injunctive proceedings
25 commenced prior to May 21, 1971 are not affected by this chapter.

26 (c) All administrative proceedings pending under prior laws which
27 are superseded by this chapter shall be continued and brought to a
28 final determination in accord with the laws and rules in effect prior
29 to May 21, 1971. Any substance controlled under prior law which is not
30 listed within Schedules I through V, is automatically controlled
31 without further proceedings and shall be listed in the appropriate
32 schedule.

33 (d) The (~~state board of pharmacy~~) commission shall initially
34 permit persons to register who own or operate any establishment engaged
35 in the manufacture, distribution, or dispensing of any controlled
36 substance prior to May 21, 1971 and who are registered or licensed by
37 the state.

1 (e) This chapter applies to violations of law, seizures and
2 forfeiture, injunctive proceedings, administrative proceedings and
3 investigations which occur following May 21, 1971.

4 **Sec. 113.** RCW 69.51.030 and 1989 1st ex.s. c 9 s 438 are each
5 amended to read as follows:

6 As used in this chapter:

7 (1) (~~"Board" means the state board of pharmacy;~~) "Commission"
8 means the pharmacy quality assurance commission;

9 (2) "Department" means the department of health(~~(-)~~);

10 (3) "Marijuana" means all parts of the plant of the genus Cannabis
11 L., whether growing or not, the seeds thereof, the resin extracted from
12 any part of the plant, and every compound, manufacture, salt,
13 derivative, mixture, or preparation of the plant, its seeds, or resin;
14 and

15 (4) "Practitioner" means a physician licensed pursuant to chapter
16 18.71 or 18.57 RCW.

17 **Sec. 114.** RCW 69.51.040 and 1989 1st ex.s. c 9 s 439 are each
18 amended to read as follows:

19 (1) There is established in the (~~board~~) commission the controlled
20 substances therapeutic research program. The program shall be
21 administered by the department. The (~~board~~) commission shall
22 promulgate rules necessary for the proper administration of the
23 Controlled Substances Therapeutic Research Act. In such promulgation,
24 the (~~board~~) commission shall take into consideration those pertinent
25 rules promulgated by the United States drug enforcement agency, the
26 food and drug administration, and the national institute on drug abuse.

27 (2) Except as provided in RCW 69.51.050(4), the controlled
28 substances therapeutic research program shall be limited to cancer
29 chemotherapy and radiology patients and glaucoma patients, who are
30 certified to the patient qualification review committee by a
31 practitioner as being involved in a life-threatening or sense-
32 threatening situation. No patient may be admitted to the controlled
33 substances therapeutic research program without full disclosure by the
34 practitioner of the experimental nature of this program and of the
35 possible risks and side effects of the proposed treatment in accordance
36 with the informed consent provisions of chapter 7.70 RCW.

1 (3) The ((~~board~~)) commission shall provide by rule for a program of
2 registration with the department of bona fide controlled substance
3 therapeutic research projects.

4 **Sec. 115.** RCW 69.51.050 and 1979 c 136 s 5 are each amended to
5 read as follows:

6 (1) The ((~~board~~)) commission shall appoint a patient qualification
7 review committee to serve at its pleasure. The patient qualification
8 review committee shall be comprised of:

9 (a) A physician licensed to practice medicine in Washington state
10 and specializing in the practice of ophthalmology;

11 (b) A physician licensed to practice medicine in Washington state
12 and specializing in the subspecialty of medical oncology;

13 (c) A physician licensed to practice medicine in Washington state
14 and specializing in the practice of psychiatry; and

15 (d) A physician licensed to practice medicine in Washington state
16 and specializing in the practice of radiology.

17 Members of the committee shall be compensated at the rate of fifty
18 dollars per day for each day spent in the performance of their official
19 duties, and shall receive reimbursement for their travel expenses as
20 provided in RCW 43.03.050 and 43.03.060.

21 (2) The patient qualification review committee shall review all
22 applicants for the controlled substance therapeutic research program
23 and their licensed practitioners and certify their participation in the
24 program.

25 (3) The patient qualification review committee and the ((~~board~~))
26 commission shall insure that the privacy of individuals who participate
27 in the controlled substance therapeutic research program is protected
28 by withholding from all persons not connected with the conduct of the
29 research the names and other identifying characteristics of such
30 individuals. Persons authorized to engage in research under the
31 controlled substance therapeutic research program may not be compelled
32 in any civil, criminal, administrative, legislative, or other
33 proceeding to identify the individuals who are the subjects of research
34 for which the authorization was granted, except to the extent necessary
35 to permit the ((~~board~~)) commission to determine whether the research is
36 being conducted in accordance with the authorization.

1 (4) The patient qualification review committee may include other
2 disease groups for participation in the controlled substances
3 therapeutic research program after pertinent medical data have been
4 presented by a practitioner to both the committee and the ((board))
5 commission, and after approval for such participation has been granted
6 pursuant to pertinent rules promulgated by the United States drug
7 enforcement agency, the food and drug administration, and the national
8 institute on drug abuse.

9 **Sec. 116.** RCW 69.51.060 and 1979 c 136 s 6 are each amended to
10 read as follows:

11 (1) The ((board)) commission shall obtain marijuana through
12 whatever means it deems most appropriate and consistent with
13 regulations promulgated by the United States food and drug
14 administration, the drug enforcement agency, and the national institute
15 on drug abuse, and pursuant to the provisions of this chapter.

16 (2) The ((board)) commission may use marijuana which has been
17 confiscated by local or state law enforcement agencies and has been
18 determined to be free from contamination.

19 (3) The ((board)) commission shall distribute the analyzed
20 marijuana to approved practitioners and/or institutions in accordance
21 with rules promulgated by the ((board)) commission.

22 **Sec. 117.** RCW 69.60.020 and 1989 c 247 s 3 are each amended to
23 read as follows:

24 The terms defined in this section shall have the meanings indicated
25 when used in this chapter.

26 (1) "Solid dosage form" means capsules or tablets or similar over-
27 the-counter medication products intended for administration and which
28 could be ingested orally.

29 (2) "Over-the-counter medication" means a drug that can be obtained
30 without a prescription and is not restricted to use by prescribing
31 practitioners. For purposes of this chapter, over-the-counter
32 medication does not include vitamins.

33 (3) (~~"Board" means the state board of pharmacy.~~) "Commission"
34 means the pharmacy quality assurance commission.

35 (4) "Purveyor" means any corporation, person, or other entity that

1 offers over-the-counter medications for wholesale, retail, or other
2 type of sale.

3 **Sec. 118.** RCW 69.60.040 and 1989 c 247 s 4 are each amended to
4 read as follows:

5 Each manufacturer shall publish and provide to the ((board))
6 commission printed material which will identify each current imprint
7 used by the manufacturer and the ((board)) commission shall be notified
8 of any change. This information shall be provided by the ((board))
9 commission to all pharmacies licensed in the state of Washington,
10 poison control centers, and hospital emergency rooms.

11 **Sec. 119.** RCW 69.60.060 and 1989 c 247 s 6 are each amended to
12 read as follows:

13 The ((board)) commission shall have authority to promulgate rules
14 for the enforcement and implementation of this chapter.

15 **Sec. 120.** RCW 69.60.080 and 1989 c 247 s 8 are each amended to
16 read as follows:

17 The ((board)) commission, upon application of a manufacturer, may
18 exempt an over-the-counter drug from the requirements of chapter 69.60
19 RCW on the grounds that imprinting is infeasible because of size,
20 texture, or other unique characteristics.

21 **Sec. 121.** RCW 69.60.090 and 1993 c 135 s 3 are each amended to
22 read as follows:

23 Before January 1, 1994, the ((board of pharmacy)) commission will
24 consult with the state toxicologist to determine whether the federal
25 government has established a legally enforceable system that is
26 substantially equivalent to the requirements of this chapter that
27 govern the imprinting of solid dosage form over-the-counter medication.
28 To be substantially equivalent, the effective dates for implementation
29 of the federal system for imprinting solid dosage form over-the-counter
30 medication must be the same or earlier than the dates of implementation
31 set out in the state system for imprinting solid dosage form over-the-
32 counter medication. If the ((board)) commission determines that the
33 federal system for imprinting solid dosage form over-the-counter
34 medication is substantially equivalent to the state system for

1 imprinting solid dosage form over-the-counter medication, this chapter
2 will cease to exist on January 1, 1994. If the ((~~board~~)) commission
3 determines that the federal system is substantially equivalent, except
4 that the federal dates for implementation are later than the Washington
5 state dates, this chapter will cease to exist when the federal system
6 is implemented.

7 **Sec. 122.** RCW 70.24.280 and 1988 c 206 s 605 are each amended to
8 read as follows:

9 The ((~~state board of pharmacy~~)) pharmacy quality assurance
10 commission shall adopt rules that require appropriate education and
11 training for licensees on the prevention, transmission, and treatment
12 of AIDS. The ((~~board~~)) commission shall work with the office on AIDS
13 under RCW 70.24.250 to develop the training and educational material
14 necessary for health professionals.

15 **Sec. 123.** RCW 70.54.140 and 1977 ex.s. c 122 s 2 are each amended
16 to read as follows:

17 No hospital or health facility may interfere with the
18 physician/patient relationship by restricting or forbidding the use of
19 amygdalin (Laetrile) when prescribed or administered by a physician
20 licensed pursuant to chapter 18.57 or 18.71 RCW and requested by a
21 patient under his/her care who has requested the substance after having
22 been given sufficient information in writing to make an informed
23 decision.

24 For the purposes of RCW 70.54.130 through 70.54.150, the ((~~state~~
25 ~~board of pharmacy~~)) pharmacy quality assurance commission shall provide
26 for the certification as to the identity of amygdalin (Laetrile) by
27 random sample testing or other testing procedures, and shall promulgate
28 rules and regulations necessary to implement and enforce its authority
29 under this section.

30 **Sec. 124.** RCW 70.106.150 and 1987 c 236 s 1 are each amended to
31 read as follows:

32 The authority to promulgate regulations for the efficient
33 enforcement of this chapter is hereby vested in the director. However,
34 the director shall designate the ((~~Washington state board of pharmacy~~))

1 pharmacy quality assurance commission to carry out all the provisions
2 of this chapter pertaining to drugs and cosmetics, with authority to
3 promulgate regulations for the efficient enforcement thereof.

4 **Sec. 125.** RCW 70.127.130 and 1993 c 42 s 9 are each amended to
5 read as follows:

6 Licensees shall conform to the standards of RCW 69.41.030 and
7 69.50.308. Rules adopted by the department concerning the use of
8 legend drugs or controlled substances shall reference and be consistent
9 with (~~board of pharmacy~~) pharmacy quality assurance commission rules.

10 **Sec. 126.** RCW 70.225.020 and 2012 c 192 s 1 are each amended to
11 read as follows:

12 (1) When sufficient funding is provided for such purpose through
13 federal or private grants, or is appropriated by the legislature, the
14 department shall establish and maintain a prescription monitoring
15 program to monitor the prescribing and dispensing of all Schedules II,
16 III, IV, and V controlled substances and any additional drugs
17 identified by the (~~board of pharmacy~~) pharmacy quality assurance
18 commission as demonstrating a potential for abuse by all professionals
19 licensed to prescribe or dispense such substances in this state. The
20 program shall be designed to improve health care quality and
21 effectiveness by reducing abuse of controlled substances, reducing
22 duplicative prescribing and overprescribing of controlled substances,
23 and improving controlled substance prescribing practices with the
24 intent of eventually establishing an electronic database available in
25 real time to dispensers and prescribers of controlled substances. As
26 much as possible, the department should establish a common database
27 with other states.

28 (2) Except as provided in subsection (4) of this section, each
29 dispenser shall submit to the department by electronic means
30 information regarding each prescription dispensed for a drug included
31 under subsection (1) of this section. Drug prescriptions for more than
32 one day use should be reported. The information submitted for each
33 prescription shall include, but not be limited to:

- 34 (a) Patient identifier;
- 35 (b) Drug dispensed;
- 36 (c) Date of dispensing;

1 (d) Quantity dispensed;

2 (e) Prescriber; and

3 (f) Dispenser.

4 (3) Each dispenser shall submit the information in accordance with
5 transmission methods established by the department.

6 (4) The data submission requirements of subsections (1) through (3)
7 of this section do not apply to:

8 (a) Medications provided to patients receiving inpatient services
9 provided at hospitals licensed under chapter 70.41 RCW; or patients of
10 such hospitals receiving services at the clinics, day surgery areas, or
11 other settings within the hospital's license where the medications are
12 administered in single doses;

13 (b) Pharmacies operated by the department of corrections for the
14 purpose of providing medications to offenders in department of
15 corrections institutions who are receiving pharmaceutical services from
16 a department of corrections pharmacy, except that the department of
17 corrections must submit data related to each offender's current
18 prescriptions for controlled substances upon the offender's release
19 from a department of corrections institution; or

20 (c) Veterinarians licensed under chapter 18.92 RCW. The
21 department, in collaboration with the veterinary board of governors,
22 shall establish alternative data reporting requirements for
23 veterinarians that allow veterinarians to report:

24 (i) By either electronic or nonelectronic methods;

25 (ii) Only those data elements that are relevant to veterinary
26 practices and necessary to accomplish the public protection goals of
27 this chapter; and

28 (iii) No more frequently than once every three months and no less
29 frequently than once every six months.

30 (5) The department shall seek federal grants to support the
31 activities described in chapter 259, Laws of 2007. The department may
32 not require a practitioner or a pharmacist to pay a fee or tax
33 specifically dedicated to the operation of the system.

34 **Sec. 127.** RCW 82.04.272 and 2003 c 168 s 401 are each amended to
35 read as follows:

36 (1) Upon every person engaging within this state in the business of
37 warehousing and reselling drugs for human use pursuant to a

1 prescription; as to such persons, the amount of the tax shall be equal
2 to the gross income of the business multiplied by the rate of 0.138
3 percent.

4 (2) For the purposes of this section:

5 (a) "Prescription" and "drug" have the same meaning as in RCW
6 82.08.0281; and

7 (b) "Warehousing and reselling drugs for human use pursuant to a
8 prescription" means the buying of drugs for human use pursuant to a
9 prescription from a manufacturer or another wholesaler, and reselling
10 of the drugs to persons selling at retail or to hospitals, clinics,
11 health care providers, or other providers of health care services, by
12 a wholesaler or retailer who is registered with the federal drug
13 enforcement administration and licensed by the (~~state board of~~
14 ~~pharmacy~~) pharmacy quality assurance commission.

15 NEW SECTION. **Sec. 128.** Section 44 of this act expires July 1,
16 2016.

17 NEW SECTION. **Sec. 129.** Section 45 of this act takes effect July
18 1, 2016.

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