
HOUSE BILL 1888

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2015 Regular Session

By Representatives Dent, Kagi, McCabe, Haler, Manweller, Fagan, Walsh, Farrell, Johnson, Van Werven, Moeller, and Buys

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1 AN ACT Relating to transferring certification responsibilities
2 for chemical dependency treatment programs from the department of
3 social and health services to the department of health; amending RCW
4 70.96A.090, 70.96A.095, 70.96A.240, and 70.96A.245; reenacting and
5 amending RCW 70.96A.020; adding a new section to chapter 70.96A RCW;
6 adding a new chapter to Title 70 RCW; creating new sections;
7 providing an effective date; and prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
10 reduce costs and promote efficiency in state government regulation of
11 chemical dependency treatment facilities and programs. Chemical
12 dependency treatment facility and program licensure and regulation
13 should be consolidated into a single state agency. National
14 accreditation standards for chemical dependency programs should be
15 used in state licensure and certification programs to the maximum
16 extent possible.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply
18 throughout this chapter unless the context clearly requires
19 otherwise.

1 (1) "Approved treatment program" means a discrete program of
2 chemical dependency treatment provided by a treatment program
3 certified by the department as meeting standards adopted under this
4 chapter.

5 (2) "Chemical dependency" means:

6 (a) Alcoholism;

7 (b) Drug addiction; or

8 (c) Dependence on alcohol and one or more other psychoactive
9 chemicals, as the context requires.

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

11 (4) "Secretary" means the secretary of health.

12 (5) "Treatment program" means an organization, institution, or
13 corporation, public or private, engaged in the care, treatment, or
14 rehabilitation of people suffering from chemical dependency.

15 NEW SECTION. **Sec. 3.** The secretary shall:

16 (1) Issue a certification to any treatment program that:

17 (a) Submits payment of the fee established by the secretary;

18 (b) Submits:

19 (i) A completed application that demonstrates the ability to
20 comply with the standards established for operating and maintaining a
21 treatment program in statute and rule; or

22 (ii) Proof of accreditation by the joint commission on
23 accreditation of health care organizations, the commission on
24 accreditation of rehabilitation facilities, the council on
25 accreditation for alcohol and drug abuse prevention programs, or any
26 other organization that the department has determined to have
27 substantially equivalent standards to those of the department; and

28 (c) Successfully completes the inspection requirements
29 established in section 4 of this act;

30 (2) Adopt rules establishing standards for treatment programs
31 applying to the department for certification as an approved treatment
32 program. The standards may concern the health standards to be met and
33 standards of services and treatment to be afforded patients;

34 (3) Develop an application form for applicants for a
35 certification to operate a treatment program or to renew a
36 certification;

37 (4) Initiate investigations and enforcement actions for
38 complaints or other information regarding failure to comply with this
39 chapter or the standards and rules adopted under this chapter;

1 (5) Conduct inspections of facilities, including reviews of
2 treatment records and documents required to be maintained under this
3 chapter or rules adopted under this chapter;

4 (6) Establish fees for certification, certification renewal, and
5 other associated costs at an amount that is sufficient to defray the
6 costs of administering the program;

7 (7) Maintain and periodically publish a current list of approved
8 treatment programs; and

9 (8) Adopt any rules necessary to implement this chapter. When
10 considering the adoption of the initial rules, the secretary shall
11 consider those rules adopted by the department of social and health
12 services under chapter 70.96A RCW.

13 NEW SECTION. **Sec. 4.** (1)(a) The department shall inspect
14 applicants for an initial certification and inspect approved public
15 and private treatment programs according to an established schedule.

16 (b) A treatment program originally certified under chapter 70.96A
17 RCW applying for an initial certification renewal with the department
18 is subject to (a) of this subsection.

19 (2) The department may deem a public or private treatment program
20 to have met the inspection standards of this section if it submits
21 proof of accreditation by an organization referenced in section
22 3(1)(b)(ii) of this act.

23 (3) Treatment programs shall make the written reports of
24 inspections or surveys conducted by an approved accrediting
25 organization available to the department inspectors during any
26 department inspection, upon request.

27 (4) Nothing in this section prohibits the department from
28 conducting an inspection at any time in the course of investigating a
29 complaint or other information which indicates potential failure of a
30 program to comply with the requirements of this chapter or the
31 standards or rules adopted under this chapter.

32 NEW SECTION. **Sec. 5.** (1) The secretary may deny, suspend, or
33 revoke the certification of any treatment program in any case in
34 which he or she finds the applicant or certified entity knowingly
35 made a false statement of material fact in the application for the
36 certification or any supporting data in any record required by this
37 chapter or matter under investigation by the department.

1 (2) The secretary shall investigate complaints concerning
2 operation of a treatment program without a certification. The
3 secretary may issue a notice of intention to issue a cease and desist
4 order to any person whom the secretary has reason to believe is
5 engaged in the uncertified operation of a treatment program. If the
6 secretary makes a written finding of fact that the public interest
7 will be irreparably harmed by delay in issuing an order, the
8 secretary may issue a temporary cease and desist order. The person
9 receiving a temporary cease and desist order must be provided an
10 opportunity for a prompt hearing. The temporary cease and desist
11 order remains in effect until further order of the secretary. Any
12 person operating a treatment program under this chapter without a
13 certification is guilty of a misdemeanor, and each day of operation
14 of an uncertified treatment program constitutes a separate offense.

15 (3) The secretary is authorized to deny, suspend, revoke, or
16 modify a certification or provisional certification in any case in
17 which it finds that there has been a failure or refusal to comply
18 with the requirements of this chapter or the standards or rules
19 adopted under this chapter. RCW 43.70.115 governs notice of a
20 certification denial, revocation, suspension, or modification and
21 provides the right to an adjudicative proceeding.

22 (4) Pursuant to chapter 34.05 RCW, the secretary may assess
23 monetary penalties of a civil nature not to exceed one thousand
24 dollars per violation.

25 NEW SECTION. **Sec. 6.** (1) No person or governmental unit of the
26 state of Washington, acting separately or jointly with any other
27 person or governmental unit, may establish, maintain, or operate a
28 treatment program or advertise or represent itself as an approved
29 treatment program in this state without a certification issued by the
30 department under this chapter.

31 (2) Upon the expiration of an approved treatment program's
32 certification that was issued by the department of social and health
33 services under chapter 70.96A RCW, the approved treatment program
34 shall apply to the secretary for the renewal of the certification.

35 (3) Until July 1, 2017, the department shall recognize the
36 unexpired certification of a treatment program issued by the
37 department of social and health services.

1 NEW SECTION. **Sec. 7.** (1) Certification as an approved treatment
2 program is effective for one calendar year from the date of issuance
3 of the certificate. The certification must specify the types of
4 services provided by the approved treatment program that meet the
5 standards adopted under this chapter. Renewal of certification must
6 be made in accordance with this chapter for initial approval and in
7 accordance with the standards set forth in rules adopted by the
8 secretary.

9 (2) Approved treatment programs may not provide chemical
10 dependency treatment services for which the approved treatment
11 program has not been certified. Approved treatment programs may
12 provide services for which approval has been sought and is pending,
13 if approval for the services has not been previously revoked or
14 denied.

15 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act
16 constitute a new chapter in Title 70 RCW.

17 **Sec. 9.** RCW 70.96A.020 and 2014 c 225 s 20 are each reenacted
18 and amended to read as follows:

19 For the purposes of this chapter the following words and phrases
20 shall have the following meanings unless the context clearly requires
21 otherwise:

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

28 (2) "Approved treatment program" means a program for persons with
29 a substance use disorder provided by a treatment program certified by
30 the department of (~~social and health services as meeting standards~~
31 ~~adopted under this chapter~~) health under chapter 70.--- RCW (the new
32 chapter created in section 8 of this act).

33 (3) "Behavioral health organization" means a county authority or
34 group of county authorities or other entity recognized by the
35 secretary in contract in a defined regional service area.

36 (4) "Behavioral health services" means mental health services as
37 described in chapters 71.24 and 71.36 RCW and chemical dependency
38 treatment services as described in this chapter.

1 (5) "Chemical dependency" means: (a) Alcoholism; (b) drug
2 addiction; or (c) dependence on alcohol and one or more other
3 psychoactive chemicals, as the context requires.

4 (6) "Chemical dependency program" means expenditures and
5 activities of the department designed and conducted to prevent or
6 treat alcoholism and other drug addiction, including reasonable
7 administration and overhead.

8 (7) "Department" means the department of social and health
9 services.

10 (8) "Designated chemical dependency specialist" or "specialist"
11 means a person designated by the behavioral health organization or by
12 the county alcoholism and other drug addiction program coordinator
13 designated under RCW 70.96A.310 to perform the commitment duties
14 described in RCW 70.96A.140 and qualified to do so by meeting
15 standards adopted by the department.

16 (9) "Director" means the person administering the substance use
17 disorder program within the department.

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

24 (11) "Emergency service patrol" means a patrol established under
25 RCW 70.96A.170.

26 (12) "Gravely disabled by alcohol or other psychoactive
27 chemicals" or "gravely disabled" means that a person, as a result of
28 the use of alcohol or other psychoactive chemicals: (a) Is in danger
29 of serious physical harm resulting from a failure to provide for his
30 or her essential human needs of health or safety; or (b) manifests
31 severe deterioration in routine functioning evidenced by a repeated
32 and escalating loss of cognition or volitional control over his or
33 her actions and is not receiving care as essential for his or her
34 health or safety.

35 (13) "History of one or more violent acts" refers to the period
36 of time ten years prior to the filing of a petition under this
37 chapter, excluding any time spent, but not any violent acts
38 committed, in a mental health facility, or a long-term alcoholism or
39 drug treatment facility, or in confinement.

1 (14) "Incapacitated by alcohol or other psychoactive chemicals"
2 means that a person, as a result of the use of alcohol or other
3 psychoactive chemicals, is gravely disabled or presents a likelihood
4 of serious harm to himself or herself, to any other person, or to
5 property.

6 (15) "Incompetent person" means a person who has been adjudged
7 incompetent by the superior court.

8 (16) "Intoxicated person" means a person whose mental or physical
9 functioning is substantially impaired as a result of the use of
10 alcohol or other psychoactive chemicals.

11 (17) "Licensed physician" means a person licensed to practice
12 medicine or osteopathic medicine and surgery in the state of
13 Washington.

14 (18) "Likelihood of serious harm" means:

15 (a) A substantial risk that: (i) Physical harm will be inflicted
16 by an individual upon his or her own person, as evidenced by threats
17 or attempts to commit suicide or inflict physical harm on one's self;
18 (ii) physical harm will be inflicted by an individual upon another,
19 as evidenced by behavior that has caused the harm or that places
20 another person or persons in reasonable fear of sustaining the harm;
21 or (iii) physical harm will be inflicted by an individual upon the
22 property of others, as evidenced by behavior that has caused
23 substantial loss or damage to the property of others; or

24 (b) The individual has threatened the physical safety of another
25 and has a history of one or more violent acts.

26 (19) "Medical necessity" for inpatient care of a minor means a
27 requested certified inpatient service that is reasonably calculated
28 to: (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)
29 prevent the progression of substance use disorders that endanger life
30 or cause suffering and pain, or result in illness or infirmity or
31 threaten to cause or aggravate a handicap, or cause physical
32 deformity or malfunction, and there is no adequate less restrictive
33 alternative available.

34 (20) "Minor" means a person less than eighteen years of age.

35 (21) "Parent" means the parent or parents who have the legal
36 right to custody of the child. Parent includes custodian or guardian.

37 (22) "Peace officer" means a law enforcement official of a public
38 agency or governmental unit, and includes persons specifically given
39 peace officer powers by any state law, local ordinance, or judicial
40 order of appointment.

1 (23) "Person" means an individual, including a minor.

2 (24) "Professional person in charge" or "professional person"
3 means a physician or chemical dependency counselor as defined in rule
4 by the department, who is empowered by a certified treatment program
5 with authority to make assessment, admission, continuing care, and
6 discharge decisions on behalf of the certified program.

7 (25) "Secretary" means the secretary of the department of social
8 and health services.

9 (26) "Substance use disorder" means a cluster of cognitive,
10 behavioral, and physiological symptoms indicating that an individual
11 continues using the substance despite significant substance-related
12 problems. The diagnosis of a substance use disorder is based on a
13 pathological pattern of behaviors related to the use of the
14 substances.

15 (27) "Treatment" means the broad range of emergency, withdrawal
16 management, residential, and outpatient services and care, including
17 diagnostic evaluation, chemical dependency education and counseling,
18 medical, psychiatric, psychological, and social service care,
19 vocational rehabilitation and career counseling, which may be
20 extended to persons with substance use disorders and their families,
21 persons incapacitated by alcohol or other psychoactive chemicals, and
22 intoxicated persons.

23 (28) "Treatment program" means an organization, institution, or
24 corporation, public or private, engaged in the care, treatment, or
25 rehabilitation of persons with substance use ~~((disorder[s]))~~
26 disorders.

27 (29) "Violent act" means behavior that resulted in homicide,
28 attempted suicide, nonfatal injuries, or substantial damage to
29 property.

30 **Sec. 10.** RCW 70.96A.090 and 2005 c 70 s 2 are each amended to
31 read as follows:

32 (1) As of July 1, 2016, the department shall no longer issue new
33 or renewal certifications to treatment programs. This section only
34 applies to those approved treatment programs that the department had
35 certified prior to July 1, 2016.

36 (2) The department shall adopt rules establishing standards for
37 approved treatment programs, the process for the review and
38 inspection program applying to the department for certification as an
39 approved treatment program, and fixing the fees to be charged by the

1 department for the required inspections. The standards may concern
2 the health standards to be met and standards of services and
3 treatment to be afforded patients.

4 ~~((+2))~~ (3) The department may suspend, revoke, limit, restrict,
5 or modify an approval, or refuse to grant approval, for failure to
6 meet the provisions of this chapter, or the standards adopted under
7 this chapter. RCW 43.20A.205 governs notice of a license denial,
8 revocation, suspension, or modification and provides the right to an
9 adjudicative proceeding.

10 ~~((+3))~~ (4) No treatment program may advertise or represent
11 itself as an approved treatment program if approval has not been
12 granted, has been denied, suspended, revoked, or canceled.

13 ~~((+4))~~ (5) Certification as an approved treatment program is
14 effective for one calendar year from the date of issuance of the
15 certificate. The certification shall specify the types of services
16 provided by the approved treatment program that meet the standards
17 adopted under this chapter. ~~((Renewal of certification shall be made
18 in accordance with this section for initial approval and in
19 accordance with the standards set forth in rules adopted by the
20 secretary.~~

21 ~~(+5))~~ (6) Approved treatment programs shall not provide
22 alcoholism or other drug addiction treatment services for which the
23 approved treatment program has not been certified. Approved treatment
24 programs may provide services for which approval has been sought and
25 is pending, if approval for the services has not been previously
26 revoked or denied.

27 ~~((+6))~~ (7) The department periodically shall inspect approved
28 public and private treatment programs at reasonable times and in a
29 reasonable manner.

30 ~~((+7))~~ (8) The department shall maintain and periodically
31 publish a current list of approved treatment programs.

32 ~~((+8) Each approved treatment program shall file with the
33 department on request, data, statistics, schedules, and information
34 the department reasonably requires. An approved treatment program
35 that without good cause fails to furnish any data, statistics,
36 schedules, or information as requested, or files fraudulent returns
37 thereof, may be removed from the list of approved treatment programs,
38 and its certification revoked or suspended.~~

39 ~~(9) The department shall use the data provided in subsection (8)
40 of this section to evaluate each program that admits children to~~

1 ~~inpatient treatment upon application of their parents. The evaluation~~
2 ~~shall be done at least once every twelve months. In addition, the~~
3 ~~department shall randomly select and review the information on~~
4 ~~individual children who are admitted on application of the child's~~
5 ~~parent for the purpose of determining whether the child was~~
6 ~~appropriately placed into treatment based on an objective evaluation~~
7 ~~of the child's condition and the outcome of the child's treatment.~~

8 ~~(10))~~ (9) Upon petition of the department and after a hearing
9 held upon reasonable notice to the facility, the superior court may
10 issue a warrant to an officer or employee of the department
11 authorizing him or her to enter and inspect at reasonable times, and
12 examine the books and accounts of, any approved public or private
13 treatment program refusing to consent to inspection or examination by
14 the department or which the department has reasonable cause to
15 believe is operating in violation of this chapter.

16 ~~((11))~~ (10)(a) All approved opiate substitution treatment
17 programs that provide services to women who are pregnant are required
18 to disseminate up-to-date and accurate health education information
19 to all their pregnant clients concerning the possible addiction and
20 health risks that their opiate substitution treatment may have on
21 their baby. All pregnant clients must also be advised of the risks to
22 both them and their baby associated with not remaining on the opiate
23 substitute program. The information must be provided to these clients
24 both verbally and in writing. The health education information
25 provided to the pregnant clients must include referral options for
26 the addicted baby.

27 (b) The department shall adopt rules that require all opiate
28 treatment programs to educate all pregnant women in their program on
29 the benefits and risks of methadone treatment to their fetus before
30 they are provided these medications, as part of their addiction
31 treatment. The department shall meet the requirements under this
32 subsection within the appropriations provided for opiate treatment
33 programs. The department, working with treatment providers and
34 medical experts, shall develop and disseminate the educational
35 materials to all certified opiate treatment programs.

36 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.96A
37 RCW to read as follows:

38 (1) Each approved treatment program shall file with the
39 department, on request, data, statistics, schedules, and information

1 the department reasonably requires. An approved treatment program
2 that without good cause fails to furnish any data, statistics,
3 schedules, or information as requested, or files fraudulent returns
4 thereof, may be removed from the list of approved treatment programs
5 and its certification revoked or suspended.

6 (2) The department shall use the data provided in subsection (1)
7 of this section to evaluate each program that admits children to
8 inpatient treatment upon application of their parents. The evaluation
9 must be done at least once every twelve months. In addition, the
10 department shall randomly select and review the information on
11 individual children who are admitted on application of the child's
12 parent for the purpose of determining whether the child was
13 appropriately placed into treatment based on an objective evaluation
14 of the child's condition and the outcome of the child's treatment.

15 **Sec. 12.** RCW 70.96A.095 and 1998 c 296 s 23 are each amended to
16 read as follows:

17 Any person thirteen years of age or older may give consent for
18 himself or herself to the furnishing of outpatient treatment by ((a))
19 an approved chemical dependency treatment program ((~~certified by the~~
20 ~~department~~)). Parental authorization is required for any treatment of
21 a minor under the age of thirteen.

22 **Sec. 13.** RCW 70.96A.240 and 1998 c 296 s 26 are each amended to
23 read as follows:

24 (1) The parent of a minor is not liable for payment of inpatient
25 or outpatient chemical dependency treatment unless the parent has
26 joined in the consent to the treatment.

27 (2) The ability of a parent to apply to ((~~a-certified~~)) an
28 approved treatment program for the admission of his or her minor
29 child does not create a right to obtain or benefit from any funds or
30 resources of the state. However, the state may provide services for
31 indigent minors to the extent that funds are available therefor.

32 **Sec. 14.** RCW 70.96A.245 and 1998 c 296 s 27 are each amended to
33 read as follows:

34 (1) A parent may bring, or authorize the bringing of, his or her
35 minor child to ((~~a-certified~~)) an approved treatment program and
36 request that a chemical dependency assessment be conducted by a

1 professional person to determine whether the minor is chemically
2 dependent and in need of inpatient treatment.

3 (2) The consent of the minor is not required for admission,
4 evaluation, and treatment if the parent brings the minor to the
5 program.

6 (3) An appropriately trained professional person may evaluate
7 whether the minor is chemically dependent. The evaluation shall be
8 completed within twenty-four hours of the time the minor was brought
9 to the program, unless the professional person determines that the
10 condition of the minor necessitates additional time for evaluation.
11 In no event shall a minor be held longer than seventy-two hours for
12 evaluation. If, in the judgment of the professional person, it is
13 determined it is a medical necessity for the minor to receive
14 inpatient treatment, the minor may be held for treatment. The
15 facility shall limit treatment to that which the professional person
16 determines is medically necessary to stabilize the minor's condition
17 until the evaluation has been completed. Within twenty-four hours of
18 completion of the evaluation, the professional person shall notify
19 the department if the child is held for treatment and of the date of
20 admission.

21 (4) No provider is obligated to provide treatment to a minor
22 under the provisions of this section. No provider may admit a minor
23 to treatment under this section unless it is medically necessary.

24 (5) No minor receiving inpatient treatment under this section may
25 be discharged from the program based solely on his or her request.

26 NEW SECTION. **Sec. 15.** (1) All powers, duties, and functions of
27 the department of social and health services pertaining to
28 certification of chemical dependency treatment programs are
29 transferred to the department of health. All references to the
30 secretary or the department of social and health services in the
31 Revised Code of Washington shall be construed to mean the secretary
32 or the department of health when referring to the functions
33 transferred in this section.

34 (2)(a) All reports, documents, surveys, books, records, files,
35 papers, or written material in the possession of the department of
36 social and health services pertaining to the powers, functions, and
37 duties transferred shall be delivered to the custody of the
38 department of health. All cabinets, furniture, office equipment,
39 motor vehicles, and other tangible property employed by the

1 department of social and health services in carrying out the powers,
2 functions, and duties transferred shall be made available to the
3 department of health. All funds, credits, or other assets held in
4 connection with the powers, functions, and duties transferred shall
5 be assigned to the department of health.

6 (b) Any appropriations made to the department of social and
7 health services for carrying out the powers, functions, and duties
8 transferred shall, on the effective date of this section, be
9 transferred and credited to the department of health.

10 (c) Whenever any question arises as to the transfer of any
11 personnel, funds, books, documents, records, papers, files,
12 equipment, or other tangible property used or held in the exercise of
13 the powers and the performance of the duties and functions
14 transferred, the director of financial management shall make a
15 determination as to the proper allocation and certify the same to the
16 state agencies concerned.

17 (3) All employees of the department of social and health services
18 engaged in performing the powers, functions, and duties transferred
19 are transferred to the jurisdiction of the department of health. All
20 employees classified under chapter 41.06 RCW, the state civil service
21 law, are assigned to the department of health to perform their usual
22 duties upon the same terms as formerly, without any loss of rights,
23 subject to any action that may be appropriate thereafter in
24 accordance with the laws and rules governing state civil service.

25 (4) All rules and all pending business before the department of
26 social and health services pertaining to the powers, functions, and
27 duties transferred shall be continued and acted upon by the
28 department of health. All existing contracts and obligations shall
29 remain in full force and shall be performed by the department of
30 health.

31 (5) The transfer of the powers, duties, functions, and personnel
32 of the department of social and health services shall not affect the
33 validity of any act performed before the effective date of this
34 section.

35 (6) If apportionments of budgeted funds are required because of
36 the transfers directed by this section, the director of financial
37 management shall certify the apportionments to the agencies affected,
38 the state auditor, and the state treasurer. Each of these shall make
39 the appropriate transfer and adjustments in funds and appropriation
40 accounts and equipment records in accordance with the certification.

1 (7) All classified employees of the department of social and
2 health services assigned to the certification of chemical dependency
3 treatment programs under this section whose positions are within an
4 existing bargaining unit description at the certification of chemical
5 dependency treatment programs shall become a part of the existing
6 bargaining unit at the certification of chemical dependency treatment
7 programs and shall be considered an appropriate inclusion or
8 modification of the existing bargaining unit under the provisions of
9 chapter 41.80 RCW.

10 NEW SECTION. **Sec. 16.** This act takes effect July 1, 2016.

11 NEW SECTION. **Sec. 17.** The secretary of health may take the
12 necessary steps to ensure that this act is implemented on its
13 effective date.

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