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SENATE BILL 5369

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State of Washington                      65th Legislature                      2017 Regular Session

By Senators Becker, Cleveland, Rivers, Keiser, Bailey, Angel,  
Warnick, and Wilson

Read first time 01/20/17. Referred to Committee on Health Care.

1            AN ACT Relating to the practice of naturopathy; amending RCW  
2 18.36A.040 and 69.41.030; reenacting and amending RCW 18.36A.020 and  
3 69.50.101; and adding new sections to chapter 18.36A RCW.

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

5            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 18.36A  
6 RCW to read as follows:

7            (1) Subject to the requirements of this section, a naturopath may  
8 prescribe and administer legend drugs and controlled substances  
9 contained in Schedules III through V of the uniform controlled  
10 substances act, chapter 69.50 RCW, as necessary in the practice of  
11 naturopathy.

12            (2) A naturopath who prescribes controlled substances shall  
13 register with the department to access the prescription monitoring  
14 program established in chapter 70.225 RCW.

15            (3) By rule, the board shall establish education and training  
16 requirements related to prescribing legend drugs and controlled  
17 substances. A naturopath may prescribe and administer drugs pursuant  
18 to subsection (1) of this section only if he or she satisfies the  
19 education and training requirements established by the board.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 18.36A  
2    RCW to read as follows:

3        A naturopath may sign and attest to any certificates, cards,  
4    forms, or other required documentation that a physician may sign, so  
5    long as it is within the naturopath's scope of practice. This  
6    includes, but is not limited to, guardianships, powers of attorney,  
7    disability determinations, and similar legal documents.

8        **Sec. 3.**    RCW 18.36A.020 and 2011 c 41 s 3 and 2011 c 40 s 1 are  
9    each reenacted and amended to read as follows:

10        Unless the context clearly requires otherwise, the definitions in  
11    this section apply throughout this chapter.

12        (1) "Board" means the board of naturopathy created in RCW  
13    18.36A.150.

14        (2) "Common diagnostic procedures" means the use of venipuncture  
15    consistent with the practice of naturopathic medicine, commonly used  
16    diagnostic modalities consistent with naturopathic practice, health  
17    history taking, physical examination, radiography, examination of  
18    body orifices excluding endoscopy, laboratory medicine, and obtaining  
19    samples of human tissues, but excluding incision or excision beyond  
20    that which is authorized as a minor office procedure.

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

22        (4) "Educational program" means an accredited program preparing  
23    persons for the practice of naturopathic medicine.

24        (5) "Homeopathy" means a system of medicine based on the use of  
25    infinitesimal doses of medicines capable of producing symptoms  
26    similar to those of the disease treated, as listed in the homeopathic  
27    pharmacopeia of the United States.

28        (6) "Hygiene and immunization" means the use of such preventative  
29    techniques as personal hygiene, asepsis, public health, and  
30    immunizations, to the extent allowed by rule.

31        (7) "Manual manipulation" or "mechanotherapy" means manipulation  
32    of a part or the whole of the body by hand or by mechanical means.

33        (8) "Minor office procedures" means care and procedures  
34    (~~incident thereto of superficial lacerations, lesions, and~~  
35    ~~abrasions, and the removal of foreign bodies located in superficial~~  
36    ~~structures, not to include the eye; and the use of antiseptics and~~  
37    ~~topical or local anesthetics in connection therewith. "Minor office~~  
38    ~~procedures" also includes intramuscular, intravenous, subcutaneous,~~  
39    ~~and intradermal injections of substances)) consistent with the~~

1 practice of naturopathic medicine (~~and~~), in accordance with rules  
2 established by the (~~secretary~~) board.

3 (9) "Naturopath" means an individual licensed under this chapter.

4 (10) "Naturopathic medicines" means vitamins; minerals; botanical  
5 medicines; homeopathic medicines; hormones; and (~~those legend drugs~~  
6 ~~and controlled substances~~) other nutrients, compounds, and natural  
7 substances consistent with naturopathic medical practice in  
8 accordance with rules established by the board. (~~Controlled~~  
9 ~~substances are limited to codeine and testosterone products that are~~  
10 ~~contained in Schedules III, IV, and V in chapter 69.50 RCW.~~)

11 (11) "Nutrition and food science" means the prevention and  
12 treatment of disease or other human conditions through the use of  
13 foods, water, herbs, roots, bark, or natural food elements.

14 (12) "Physical modalities" means use of physical, chemical,  
15 electrical, and other modalities (~~that do not exceed those used as~~  
16 ~~of July 22, 2011,~~) in minor office procedures or common diagnostic  
17 procedures, including but not limited to heat, cold, air, light,  
18 water in any of its forms, sound, massage, and therapeutic exercise.

19 (13) "Radiography" means the ordering, but not the  
20 interpretation, of radiographic diagnostic and other imaging studies  
21 and the taking and interpretation of standard radiographs.

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

24 (15) "Suggestion" means techniques including but not limited to  
25 counseling, biofeedback, and hypnosis.

26 **Sec. 4.** RCW 18.36A.040 and 2011 c 40 s 2 are each amended to  
27 read as follows:

28 Naturopathic medicine is the practice by naturopaths of the art  
29 and science of the diagnosis, prevention, and treatment of disorders  
30 of the body by stimulation or support, or both, of the natural  
31 processes of the human body. A naturopath is responsible and  
32 accountable to the consumer for the quality of naturopathic care  
33 rendered.

34 The practice of naturopathic medicine includes manual  
35 manipulation (mechanotherapy), the prescription, administration,  
36 dispensing, and use, except for the treatment of malignancies, of  
37 nutrition and food science, physical modalities, minor office  
38 procedures, homeopathy, naturopathic medicines, legend drugs and  
39 controlled substances contained in Schedules III through V of the

1 uniform controlled substances act, chapter 69.50 RCW, hygiene and  
2 immunization, contraceptive devices, common diagnostic procedures,  
3 and suggestion; however, nothing in this chapter shall prohibit  
4 consultation and treatment of a patient in concert with a  
5 practitioner licensed under chapter 18.57 or 18.71 RCW. No person  
6 licensed under this chapter may employ the term "chiropractic" to  
7 describe any services provided by a naturopath under this chapter.

8 **Sec. 5.** RCW 69.41.030 and 2016 c 148 s 11 are each amended to  
9 read as follows:

10 (1) It shall be unlawful for any person to sell, deliver, or  
11 possess any legend drug except upon the order or prescription of a  
12 physician under chapter 18.71 RCW, an osteopathic physician and  
13 surgeon under chapter 18.57 RCW, an optometrist licensed under  
14 chapter 18.53 RCW who is certified by the optometry board under RCW  
15 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician  
16 and surgeon under chapter 18.22 RCW, a naturopathic physician under  
17 chapter 18.36A RCW, a veterinarian under chapter 18.92 RCW, a  
18 commissioned medical or dental officer in the United States armed  
19 forces or public health service in the discharge of his or her  
20 official duties, a duly licensed physician or dentist employed by the  
21 veterans administration in the discharge of his or her official  
22 duties, a registered nurse or advanced registered nurse practitioner  
23 under chapter 18.79 RCW when authorized by the nursing care quality  
24 assurance commission, a pharmacist licensed under chapter 18.64 RCW  
25 to the extent permitted by drug therapy guidelines or protocols  
26 established under RCW 18.64.011 and authorized by the commission and  
27 approved by a practitioner authorized to prescribe drugs, an  
28 osteopathic physician assistant under chapter 18.57A RCW when  
29 authorized by the board of osteopathic medicine and surgery, a  
30 physician assistant under chapter 18.71A RCW when authorized by the  
31 medical quality assurance commission, or any of the following  
32 professionals in any province of Canada that shares a common border  
33 with the state of Washington or in any state of the United States: A  
34 physician licensed to practice medicine and surgery or a physician  
35 licensed to practice osteopathic medicine and surgery, a physician  
36 licensed to practice naturopathic medicine and authorized to  
37 prescribe legend drugs, a dentist licensed to practice dentistry, a  
38 podiatric physician and surgeon licensed to practice podiatric  
39 medicine and surgery, a licensed advanced registered nurse

1 practitioner, a licensed physician assistant, a licensed osteopathic  
2 physician assistant, or a veterinarian licensed to practice  
3 veterinary medicine: PROVIDED, HOWEVER, That the above provisions  
4 shall not apply to sale, delivery, or possession by drug wholesalers  
5 or drug manufacturers, or their agents or employees, or to any  
6 practitioner acting within the scope of his or her license, or to a  
7 common or contract carrier or warehouse operator, or any employee  
8 thereof, whose possession of any legend drug is in the usual course  
9 of business or employment: PROVIDED FURTHER, That nothing in this  
10 chapter or chapter 18.64 RCW shall prevent a family planning clinic  
11 that is under contract with the health care authority from selling,  
12 delivering, possessing, and dispensing commercially prepackaged oral  
13 contraceptives prescribed by authorized, licensed health care  
14 practitioners.

15 (2)(a) A violation of this section involving the sale, delivery,  
16 or possession with intent to sell or deliver is a class B felony  
17 punishable according to chapter 9A.20 RCW.

18 (b) A violation of this section involving possession is a  
19 misdemeanor.

20 **Sec. 6.** RCW 69.50.101 and 2015 2nd sp.s. c 4 s 901 are each  
21 reenacted and amended to read as follows:

22 The definitions in this section apply throughout this chapter  
23 unless the context clearly requires otherwise.

24 (a) "Administer" means to apply a controlled substance, whether  
25 by injection, inhalation, ingestion, or any other means, directly to  
26 the body of a patient or research subject by:

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

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

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

35 (c) "CBD concentration" has the meaning provided in RCW  
36 69.51A.010.

37 (d) "Commission" means the pharmacy quality assurance commission.

1 (e) "Controlled substance" means a drug, substance, or immediate  
2 precursor included in Schedules I through V as set forth in federal  
3 or state laws, or federal or commission rules.

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

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

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

17 (2) The term does not include:

18 (i) a controlled substance;

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

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

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

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

32 (h) "Department" means the department of health.

33 (i) "Designated provider" has the meaning provided in RCW  
34 69.51A.010.

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

40 (k) "Dispenser" means a practitioner who dispenses.

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

3 (m) "Distributor" means a person who distributes.

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

15 (o) "Drug enforcement administration" means the drug enforcement  
16 administration in the United States Department of Justice, or its  
17 successor agency.

18 (p) "Electronic communication of prescription information" means  
19 the transmission of a prescription or refill authorization for a drug  
20 of a practitioner using computer systems. The term does not include a  
21 prescription or refill authorization verbally transmitted by  
22 telephone nor a facsimile manually signed by the practitioner.

23 (q) "Immediate precursor" means a substance:

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

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

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

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

37 (s) "Lot" means a definite quantity of marijuana, marijuana  
38 concentrates, useable marijuana, or marijuana-infused product  
39 identified by a lot number, every portion or package of which is

1 uniform within recognized tolerances for the factors that appear in  
2 the labeling.

3 (t) "Lot number" must identify the licensee by business or trade  
4 name and Washington state unified business identifier number, and the  
5 date of harvest or processing for each lot of marijuana, marijuana  
6 concentrates, useable marijuana, or marijuana-infused product.

7 (u) "Manufacture" means the production, preparation, propagation,  
8 compounding, conversion, or processing of a controlled substance,  
9 either directly or indirectly or by extraction from substances of  
10 natural origin, or independently by means of chemical synthesis, or  
11 by a combination of extraction and chemical synthesis, and includes  
12 any packaging or repackaging of the substance or labeling or  
13 relabeling of its container. The term does not include the  
14 preparation, compounding, packaging, repackaging, labeling, or  
15 relabeling of a controlled substance:

16 (1) by a practitioner as an incident to the practitioner's  
17 administering or dispensing of a controlled substance in the course  
18 of the practitioner's professional practice; or

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

23 (v) "Marijuana" or "marihuana" means all parts of the plant  
24 *Cannabis*, whether growing or not, with a THC concentration greater  
25 than 0.3 percent on a dry weight basis; the seeds thereof; the resin  
26 extracted from any part of the plant; and every compound,  
27 manufacture, salt, derivative, mixture, or preparation of the plant,  
28 its seeds or resin. The term does not include the mature stalks of  
29 the plant, fiber produced from the stalks, oil or cake made from the  
30 seeds of the plant, any other compound, manufacture, salt,  
31 derivative, mixture, or preparation of the mature stalks (except the  
32 resin extracted therefrom), fiber, oil, or cake, or the sterilized  
33 seed of the plant which is incapable of germination.

34 (w) "Marijuana concentrates" means products consisting wholly or  
35 in part of the resin extracted from any part of the plant *Cannabis*  
36 and having a THC concentration greater than ten percent.

37 (x) "Marijuana processor" means a person licensed by the state  
38 liquor and cannabis board to process marijuana into marijuana  
39 concentrates, useable marijuana, and marijuana-infused products,  
40 package and label marijuana concentrates, useable marijuana, and



1 marijuana-infused products for sale in retail outlets, and sell  
2 marijuana concentrates, useable marijuana, and marijuana-infused  
3 products at wholesale to marijuana retailers.

4 (y) "Marijuana producer" means a person licensed by the state  
5 liquor and cannabis board to produce and sell marijuana at wholesale  
6 to marijuana processors and other marijuana producers.

7 (z) "Marijuana products" means useable marijuana, marijuana  
8 concentrates, and marijuana-infused products as defined in this  
9 section.

10 (aa) "Marijuana researcher" means a person licensed by the state  
11 liquor and cannabis board to produce, process, and possess marijuana  
12 for the purposes of conducting research on marijuana and marijuana-  
13 derived drug products.

14 (bb) "Marijuana retailer" means a person licensed by the state  
15 liquor and cannabis board to sell marijuana concentrates, useable  
16 marijuana, and marijuana-infused products in a retail outlet.

17 (cc) "Marijuana-infused products" means products that contain  
18 marijuana or marijuana extracts, are intended for human use, are  
19 derived from marijuana as defined in subsection (v) of this section,  
20 and have a THC concentration no greater than ten percent. The term  
21 "marijuana-infused products" does not include either useable  
22 marijuana or marijuana concentrates.

23 (dd) "Narcotic drug" means any of the following, whether produced  
24 directly or indirectly by extraction from substances of vegetable  
25 origin, or independently by means of chemical synthesis, or by a  
26 combination of extraction and chemical synthesis:

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

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

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

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

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

2 (6) Cocaine base.

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

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

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

16 (ff) "Opium poppy" means the plant of the species *Papaver*  
17 *somniferum* L., except its seeds.

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

22 (hh) "Plant" has the meaning provided in RCW 69.51A.010.

23 (ii) "Poppy straw" means all parts, except the seeds, of the  
24 opium poppy, after mowing.

25 (jj) "Practitioner" means:

26 (1) A physician under chapter 18.71 RCW; a physician assistant  
27 under chapter 18.71A RCW; an osteopathic physician and surgeon under  
28 chapter 18.57 RCW; an osteopathic physician assistant under chapter  
29 18.57A RCW who is licensed under RCW 18.57A.020 subject to any  
30 limitations in RCW 18.57A.040; an optometrist licensed under chapter  
31 18.53 RCW who is certified by the optometry board under RCW 18.53.010  
32 subject to any limitations in RCW 18.53.010; a dentist under chapter  
33 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;  
34 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced  
35 registered nurse practitioner, or licensed practical nurse under  
36 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW  
37 who is licensed under RCW 18.36A.030 subject to any limitations in  
38 RCW 18.36A.040 and section 1 of this act; a pharmacist under chapter  
39 18.64 RCW or a scientific investigator under this chapter, licensed,  
40 registered or otherwise permitted insofar as is consistent with those

1 licensing laws to distribute, dispense, conduct research with respect  
2 to or administer a controlled substance in the course of their  
3 professional practice or research in this state.

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

8 (3) A physician licensed to practice medicine and surgery, a  
9 physician licensed to practice osteopathic medicine and surgery, a  
10 dentist licensed to practice dentistry, a podiatric physician and  
11 surgeon licensed to practice podiatric medicine and surgery, a  
12 licensed physician assistant or a licensed osteopathic physician  
13 assistant specifically approved to prescribe controlled substances by  
14 his or her state's medical quality assurance commission or equivalent  
15 and his or her supervising physician, an advanced registered nurse  
16 practitioner licensed to prescribe controlled substances, a  
17 naturopathic physician licensed to prescribe controlled substances,  
18 or a veterinarian licensed to practice veterinary medicine in any  
19 state of the United States.

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

24 (ll) "Production" includes the manufacturing, planting,  
25 cultivating, growing, or harvesting of a controlled substance.

26 (mm) "Qualifying patient" has the meaning provided in RCW  
27 69.51A.010.

28 (nn) "Recognition card" has the meaning provided in RCW  
29 69.51A.010.

30 (oo) "Retail outlet" means a location licensed by the state  
31 liquor and cannabis board for the retail sale of marijuana  
32 concentrates, useable marijuana, and marijuana-infused products.

33 (pp) "Secretary" means the secretary of health or the secretary's  
34 designee.

35 (qq) "State," unless the context otherwise requires, means a  
36 state of the United States, the District of Columbia, the  
37 Commonwealth of Puerto Rico, or a territory or insular possession  
38 subject to the jurisdiction of the United States.

39 (rr) "THC concentration" means percent of delta-9  
40 tetrahydrocannabinol content per dry weight of any part of the plant

1 *Cannabis*, or per volume or weight of marijuana product, or the  
2 combined percent of delta-9 tetrahydrocannabinol and  
3 tetrahydrocannabinolic acid in any part of the plant *Cannabis*  
4 regardless of moisture content.

5 (ss) "Ultimate user" means an individual who lawfully possesses a  
6 controlled substance for the individual's own use or for the use of a  
7 member of the individual's household or for administering to an  
8 animal owned by the individual or by a member of the individual's  
9 household.

10 (tt) "Useable marijuana" means dried marijuana flowers. The term  
11 "useable marijuana" does not include either marijuana-infused  
12 products or marijuana concentrates.

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