

**SSB 5271 - S AMD 485**  
By Senator Cleveland

ADOPTED 01/24/2024

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 18.46.010 and 2000 c 93 s 30 are each amended to  
4 read as follows:

5 (1) "Birthing center" or "childbirth center" means any health  
6 facility, not part of a hospital or in a hospital, that provides  
7 facilities and staff to support a birth service to low-risk maternity  
8 clients: PROVIDED, HOWEVER, That this chapter shall not apply to any  
9 hospital approved by the American College of Surgeons, American  
10 Osteopathic Association, or its successor.

11 (2) "Department" means the state department of health.

12 (3) "Immediate jeopardy" means a situation in which the birthing  
13 center's noncompliance with one or more statutory or regulatory  
14 requirements has placed the health and safety of patients in its care  
15 at risk for serious injury, serious harm, serious impairment, or  
16 death.

17 (4) "Low-risk" means normal, uncomplicated prenatal course as  
18 determined by adequate prenatal care and prospects for a normal  
19 uncomplicated birth as defined by reasonable and generally accepted  
20 criteria of maternal and fetal health.

21 ~~((4))~~ (5) "Person" means any individual, firm, partnership,  
22 corporation, company, association, or joint stock association, and  
23 the legal successor thereof.

24 **Sec. 2.** RCW 18.46.050 and 1997 c 58 s 823 are each amended to  
25 read as follows:

26 (1) ~~((The department may deny, suspend, or revoke a license in~~  
27 ~~any case in which it finds that there has been failure or refusal to~~  
28 ~~comply with the requirements established under this chapter or the~~  
29 ~~rules adopted under it.~~

30 (2) ~~The department shall immediately suspend the license of a~~  
31 ~~person who has been certified pursuant to RCW 74.20A.320 by the~~

1 ~~department of social and health services as a person who is not in~~  
2 ~~compliance with a support order or a residential or visitation order.~~  
3 ~~If the person has continued to meet all other requirements for~~  
4 ~~reinstatement during the suspension, reissuance of the license shall~~  
5 ~~be automatic upon the department's receipt of a release issued by the~~  
6 ~~department of social and health services stating that the person is~~  
7 ~~in compliance with the order.~~

8 ~~RCW 43.70.115 governs notice of a license denial, revocation,~~  
9 ~~suspension, or modification and provides the right to an adjudicative~~  
10 ~~proceeding but shall not apply to actions taken under subsection (2)~~  
11 ~~of this section)) In any case in which the department finds that a~~  
12 ~~birthing center has failed or refused to comply with the requirements~~  
13 ~~of this chapter, the standards or rules adopted under this chapter,~~  
14 ~~or other applicable state or federal statutes or rules regulating~~  
15 ~~birthing centers, the department may take one or more of the actions~~  
16 ~~identified in this section, except as otherwise limited in this~~  
17 ~~section.~~

18 (a) When the department determines the birthing center has  
19 previously been subject to an enforcement action for the same or  
20 similar type of violation of the same statute or rule, or has been  
21 given any previous statement of deficiency that included the same or  
22 similar type of violation of the same or similar statute or rule, or  
23 when the birthing center failed to correct noncompliance with a  
24 statute or rule by a date established or agreed to by the department,  
25 the department may impose reasonable conditions on a license.  
26 Conditions may include correction within a specified amount of time,  
27 training, or hiring a department-approved consultant if the birthing  
28 center cannot demonstrate to the department that it has access to  
29 sufficient internal expertise. If the department determines that the  
30 violations constitute immediate jeopardy, the conditions may be  
31 imposed immediately in accordance with subsection (2) of this  
32 section.

33 (b) In accordance with the authority the department has under RCW  
34 43.70.095, the department may assess a civil fine of up to \$3,000 per  
35 violation on a birthing center licensed under this chapter when the  
36 department determines the birthing center has previously been subject  
37 to an enforcement action for the same or similar type of violation of  
38 the same statute or rule, or has been given any previous statement of  
39 deficiency that included the same or similar type of violation of the  
40 same or similar statute or rule, or when the birthing center failed

1 to correct noncompliance with a statute or rule by a date established  
2 or agreed to by the department.

3 (i) Proceeds from these fines may only be used by the department  
4 to offset costs associated with licensing and enforcement of birthing  
5 centers.

6 (ii) The department shall adopt in rules under this chapter  
7 specific fine amounts in relation to the severity of the  
8 noncompliance and at an adequate level to be a deterrent to future  
9 noncompliance.

10 (iii) If a birthing center is aggrieved by the department's  
11 action of assessing civil fines, the licensee has the right to appeal  
12 under RCW 43.70.095.

13 (c) The department may suspend a specific category or categories  
14 of services or care or birthing rooms within the birthing center as  
15 related to the violation by imposing a limited stop service. This may  
16 only be done if the department finds that noncompliance results in  
17 immediate jeopardy.

18 (i) Prior to imposing a limited stop service, the department  
19 shall provide a birthing center written notification upon identifying  
20 deficient practices or conditions that constitute an immediate  
21 jeopardy. The birthing center shall have 24 hours from notification  
22 to develop and implement a department-approved plan to correct the  
23 deficient practices or conditions that constitute an immediate  
24 jeopardy. If the deficient practices or conditions that constitute  
25 immediate jeopardy are not verified by the department as having been  
26 corrected within the same 24-hour period, the department may issue  
27 the limited stop service.

28 (ii) When the department imposes a limited stop service, the  
29 birthing center may not provide the services in the category or  
30 categories subject to the limited stop service to any new or existing  
31 patients, unless otherwise allowed by the department, until the  
32 limited stop service is terminated.

33 (iii) The department shall conduct a follow-up inspection within  
34 five business days or within the time period requested by the  
35 birthing center if more than five business days is needed to verify  
36 the violation necessitating the limited stop service has been  
37 corrected.

38 (iv) The limited stop service shall be terminated when:

39 (A) The department verifies the violation necessitating the  
40 limited stop service has been corrected or the department determines

1 that the birthing center has taken intermediate action to address the  
2 immediate jeopardy; and

3 (B) The birthing center establishes the ability to maintain  
4 correction of the violation previously found deficient.

5 (d) The department may suspend new admissions to the birthing  
6 center by imposing a stop placement. This may only be done if the  
7 department finds that noncompliance results in immediate jeopardy and  
8 is not confined to a specific category or categories of patients or a  
9 specific area of the birthing center.

10 (i) Prior to imposing a stop placement, the department shall  
11 provide a birthing center written notification upon identifying  
12 deficient practices or conditions that constitute an immediate  
13 jeopardy. The birthing center shall have 24 hours from notification  
14 to develop and implement a department-approved plan to correct the  
15 deficient practices or conditions that constitute an immediate  
16 jeopardy. If the deficient practices or conditions that constitute  
17 immediate jeopardy are not verified by the department as having been  
18 corrected within the same 24-hour period, the department may issue  
19 the stop placement.

20 (ii) When the department imposes a stop placement, the birthing  
21 center may not admit any new patients until the stop placement is  
22 terminated.

23 (iii) The department shall conduct a follow-up inspection within  
24 five business days or within the time period requested by the  
25 birthing center if more than five business days is needed to verify  
26 the violation necessitating the stop placement has been corrected.

27 (iv) The stop placement shall be terminated when:

28 (A) The department verifies the violation necessitating the stop  
29 placement has been corrected or the department determines that the  
30 birthing center has taken intermediate action to address the  
31 immediate jeopardy; and

32 (B) The birthing center establishes the ability to maintain  
33 correction of the violation previously found deficient.

34 (e) The department may deny an application for a license or  
35 suspend, revoke, or refuse to renew a license.

36 (2) Except as otherwise provided, RCW 43.70.115 governs notice of  
37 actions taken by the department under subsection (1) of this section  
38 and provides the right to an adjudicative proceeding. Adjudicative  
39 proceedings and hearings under this section are governed by the  
40 administrative procedure act, chapter 34.05 RCW. The application for

1 an adjudicative proceeding must be in writing, state the basis for  
2 contesting the adverse action, include a copy of the department's  
3 notice, be served on and received by the department within 28 days of  
4 the birthing center's receipt of the adverse notice, and be served in  
5 a manner that shows proof of receipt.

6 (3) When the department determines a licensee's noncompliance  
7 results in immediate jeopardy, the department may make the imposition  
8 of conditions on a licensee, a limited stop service, stop placement,  
9 or the suspension of a license effective immediately upon receipt of  
10 the notice by the licensee, pending any adjudicative proceeding.

11 (a) When the department makes the suspension of a license or  
12 imposition of conditions on a license effective immediately, a  
13 licensee is entitled to a show cause hearing before a presiding  
14 officer within 14 days of making the request. The licensee must  
15 request the show cause hearing within 28 days of receipt of the  
16 notice of immediate suspension or immediate imposition of conditions.  
17 At the show cause hearing the department has the burden of  
18 demonstrating that more probably than not there is an immediate  
19 jeopardy.

20 (b) At the show cause hearing, the presiding officer may consider  
21 the notice and documents supporting the immediate suspension or  
22 immediate imposition of conditions and the licensee's response and  
23 shall provide the parties with an opportunity to provide documentary  
24 evidence and written testimony, and to be represented by counsel.  
25 Prior to the show cause hearing, the department shall provide the  
26 licensee with all documentation that supports the department's  
27 immediate suspension or imposition of conditions.

28 (c) If the presiding officer determines there is no immediate  
29 jeopardy, the presiding officer may overturn the immediate suspension  
30 or immediate imposition of conditions.

31 (d) If the presiding officer determines there is immediate  
32 jeopardy, the immediate suspension or immediate imposition of  
33 conditions shall remain in effect pending a full hearing.

34 (e) If the presiding officer sustains the immediate suspension or  
35 immediate imposition of conditions, the licensee may request an  
36 expedited full hearing on the merits of the department's action. A  
37 full hearing must be provided within 90 days of the licensee's  
38 request.

39 (4) When the department determines an alleged violation, if true,  
40 would constitute an immediate jeopardy, and the licensee fails to

1 cooperate with the department's investigation of such an alleged  
2 violation, the department may impose an immediate stop placement,  
3 immediate limited stop service, immediate imposition of conditions,  
4 or immediate suspension.

5 (a) When the department imposes an immediate stop placement,  
6 immediate limited stop service, immediate imposition of conditions,  
7 or immediate suspension for failure to cooperate, a licensee is  
8 entitled to a show cause hearing before a presiding officer within 14  
9 days of making the request. The licensee must request the show cause  
10 hearing within 28 days of receipt of the notice of an immediate stop  
11 placement, immediate limited stop service, immediate imposition of  
12 conditions, or immediate suspension for failure to cooperate. At the  
13 show cause hearing the department has the burden of demonstrating  
14 that more probably than not the alleged violation, if true, would  
15 constitute an immediate jeopardy and the licensee failed to cooperate  
16 with the department's investigation.

17 (b) At the show cause hearing, the presiding officer may consider  
18 the notice and documents supporting the immediate stop placement,  
19 immediate limited stop service, immediate imposition of conditions,  
20 or immediate suspension for failure to cooperate, and the licensee's  
21 response and shall provide the parties with an opportunity to provide  
22 documentary evidence and written testimony, and to be represented by  
23 counsel. Prior to the show cause hearing, the department shall  
24 provide the licensee with all documentation that supports the  
25 department's immediate action for failure to cooperate.

26 (c) If the presiding officer determines the alleged violation, if  
27 true, does not constitute an immediate jeopardy or determines that  
28 the licensee cooperated with the department's investigation, the  
29 presiding officer may overturn the immediate action for failure to  
30 cooperate.

31 (d) If the presiding officer determines the allegation, if true,  
32 would constitute an immediate jeopardy and the licensee failed to  
33 cooperate with the department's investigation, the immediate action  
34 for failure to cooperate shall remain in effect pending a full  
35 hearing.

36 (e) If the presiding officer sustains the immediate action for  
37 failure to cooperate, the licensee may request an expedited full  
38 hearing on the merits of the department's action. A full hearing must  
39 be provided within 90 days of the licensee's request.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.46

2 RCW to read as follows:

3 (1) The department may give written notice to cease and desist to  
4 any person whom the department has reason to believe is engaged in  
5 the unlicensed operation of a birthing center.

6 (2)(a) Except as otherwise provided in this section, the  
7 requirement to cease and desist unlicensed operation is effective 20  
8 days after the person receives the notice.

9 (b) The department may make the date the action is effective  
10 sooner than 20 days after receipt when necessary to protect the  
11 public health, safety, or welfare. When the department does so, it  
12 shall state the effective date and the reasons supporting the  
13 effective date in the written notice to cease and desist.

14 (3) The person to whom the notice to cease and desist is issued  
15 may request an adjudicative proceeding to contest the notice. The  
16 adjudicative proceeding is governed by the administrative procedure  
17 act, chapter 34.05 RCW. The request for an adjudicative proceeding  
18 must be in writing, state the basis for contesting the notice,  
19 include a copy of the notice, and be served on and received by the  
20 department within 20 days from the date the person receives the  
21 notice to cease and desist.

22 (4)(a) If the department gives a person 20 days' notice to cease  
23 and desist and the person requests an adjudicative proceeding before  
24 its effective date, the department shall not implement the notice  
25 until the final order has been entered. The presiding or reviewing  
26 officer may permit the department to implement part or all of the  
27 notice while the proceedings are pending if the respondent causes an  
28 unreasonable delay in the proceeding, if the circumstances change so  
29 that implementation is in the public interest, or for other good  
30 cause.

31 (b) If the department gives a licensee less than 20 days' notice  
32 to cease and desist and the respondent timely files a request for an  
33 adjudicative proceeding, the department may implement the cease and  
34 desist on the effective date stated in the notice. The presiding or  
35 reviewing officer may order the department to stay implementation of  
36 part or all of the adverse action while the proceedings are pending  
37 if staying implementation is in the public interest or for other good  
38 cause.

1 (5) The department may assess a civil fine not exceeding \$5,000  
2 for each day a person operates a birthing center without a valid  
3 license.

4 (a) The department shall give written notice to the person  
5 against whom it assesses a civil fine.

6 (b) Except as otherwise provided in (c) and (d) of this  
7 subsection, the civil fine is due and payable 20 days after receipt.

8 (c) The person against whom the department assesses a civil fine  
9 has the right to request an adjudicative proceeding. The proceeding  
10 is governed by the administrative procedure act, chapter 34.05 RCW.  
11 The request must be in writing, state the basis for contesting the  
12 fine, include a copy of the notice, be served on and received by the  
13 department within 20 days of the person receiving the notice of civil  
14 fine, and be served in a manner which shows proof of receipt.

15 (d) If the person files a timely and sufficient request for  
16 adjudicative proceeding, the department shall not implement the fine  
17 until the final order has been served.

18 (6) Neither the issuance of a cease and desist order nor payment  
19 of a civil fine shall relieve the person so operating a birthing  
20 center without a license from criminal prosecution, but the remedy of  
21 a cease and desist order or civil fine shall be in addition to any  
22 criminal liability. A final notice to cease and desist is conclusive  
23 proof of unlicensed operation and may be enforced under RCW 7.21.060.  
24 This method of enforcement of the final notice to cease and desist or  
25 civil fine may be used in addition to, or as an alternative to, any  
26 provisions for enforcement of agency orders set out in chapter 34.05  
27 RCW.

28 **Sec. 4.** RCW 18.46.130 and 2000 c 93 s 39 are each amended to  
29 read as follows:

30 (1) Notwithstanding the existence or use of any other remedy, the  
31 department may in the manner provided by law, upon the advice of the  
32 attorney general who shall represent the department in all  
33 proceedings, maintain an action in the name of the state for an  
34 injunction or other process against any person to restrain or prevent  
35 the advertisement, operation ((or)), maintenance, management, or  
36 opening of a birthing center not licensed under this chapter.

37 (2) The injunction shall not relieve the person operating a birth  
38 center without a license from criminal prosecution, or the imposition  
39 of a civil fine under section 3 of this act, but the remedy by



1 injunction shall be in addition to any criminal liability or civil  
2 fine. A person that violates an injunction issued under this chapter  
3 shall pay a civil penalty, as determined by the court, of not more  
4 than \$25,000, which shall be deposited in the department's local fee  
5 account. For the purpose of this section, the superior court issuing  
6 any injunction shall retain jurisdiction and the cause shall be  
7 continued, and in such cases the attorney general acting in the name  
8 of the state may petition for the recovery of civil penalties. All  
9 finances, forfeitures, and penalties collected or assessed by a court  
10 because of a violation of RCW 18.46.020 shall be deposited in the  
11 department's local fee account.

12 **Sec. 5.** RCW 70.42.010 and 1989 c 386 s 2 are each amended to  
13 read as follows:

14 Unless the context clearly requires otherwise, the definitions in  
15 this section apply throughout this chapter.

16 (1) "Department" means the department of health (~~if enacted,~~  
17 ~~otherwise the department of social and health services~~).

18 (2) "Designated test site supervisor" means the available  
19 individual who is responsible for the technical functions of the test  
20 site and who meets the department's qualifications set out in rule by  
21 the department.

22 (3) "Immediate jeopardy" means a situation in which the medical  
23 test site's noncompliance with one or more statutory or regulatory  
24 requirements has placed the health and safety of patients in its care  
25 at risk for serious injury, serious harm, serious impairment, or  
26 death.

27 (4) "Person" means any individual, or any public or private  
28 organization, agent, agency, corporation, firm, association,  
29 partnership, or business.

30 ~~((4))~~ (5) "Proficiency testing program" means an external  
31 service approved by the department which provides samples to evaluate  
32 the accuracy, reliability and performance of the tests at each test  
33 site.

34 ~~((5))~~ (6) "Quality assurance" means a comprehensive set of  
35 policies, procedures, and practices to assure that a test site's  
36 results are accurate and reliable. Quality assurance means a total  
37 program of internal and external quality control, equipment  
38 preventative maintenance, calibration, recordkeeping, and proficiency  
39 testing evaluation, including a written quality assurance plan.

1       (~~(6)~~) (7) "Quality control" means internal written procedures  
2 and day-to-day analysis of laboratory reference materials at each  
3 test site to insure precision and accuracy of test methodology,  
4 equipment, and results.

5       (~~(7)~~) (8) "Test" means any examination or procedure conducted  
6 on a sample taken from the human body, including screening.

7       (~~(8)~~) (9) "Test site" means any facility or site, public or  
8 private, which analyzes materials derived from the human body for the  
9 purposes of health care, treatment, or screening. A test site does  
10 not mean a facility or site, including a residence, where a test  
11 approved for home use by the federal food and drug administration is  
12 used by an individual to test himself or herself without direct  
13 supervision or guidance by another and where this test is not part of  
14 a commercial transaction.

15       **Sec. 6.** RCW 70.42.130 and 1989 c 386 s 14 are each amended to  
16 read as follows:

17       Under this chapter, and chapter 34.05 RCW, the department may  
18 place conditions on a license which limit or cancel a test site's  
19 authority to conduct any of the tests or groups of tests of any  
20 licensee who:

21       (1) Fails or refuses to comply with the requirements of this  
22 chapter (~~(6)~~), the rules or standards adopted under this chapter, or  
23 other applicable state or federal statutes or rules regulating  
24 medical test sites;

25       (2) Has knowingly or with reason to know made a false statement  
26 of a material fact in the application for a license or in any data  
27 attached thereto or in any record required by the department;

28       (3) Refuses to allow representatives of the department to examine  
29 any book, record, or file required by this chapter to be maintained;

30       (4) Willfully prevented, interfered with, or attempted to impede  
31 in any way the work of a representative of the department;

32       (5) Willfully prevented or interfered with preservation of  
33 evidence of a known violation of this chapter or the rules adopted  
34 under this chapter; or

35       (6) Misrepresented, or was fraudulent in, any aspect of the  
36 licensee's business.

37       NEW SECTION. **Sec. 7.** A new section is added to chapter 70.42  
38 RCW to read as follows:

1 (1) The department may prohibit a specific category or categories  
2 of services within the medical test site as related to noncompliance  
3 with the requirements of this chapter or the standards or rules  
4 adopted under this chapter by imposing a limited stop service. This  
5 may only be done if the department finds that noncompliance results  
6 in immediate jeopardy.

7 (2) Prior to imposing a limited stop service, the department  
8 shall provide the medical test site a written notification upon  
9 identifying deficient practices or conditions that constitute an  
10 immediate jeopardy. The medical test site shall have 24 hours from  
11 notification to develop and implement a department-approved plan to  
12 correct the deficient practices or conditions that constitute an  
13 immediate jeopardy. If the deficient practices or conditions that  
14 constitute immediate jeopardy are not verified by the department as  
15 having been corrected within the same 24-hour period, the department  
16 may issue the limited stop service.

17 (3) When the department imposes a limited stop service, the  
18 medical test site may not perform any new testing in the category or  
19 categories subject to the limited stop service until the limited stop  
20 service is terminated.

21 (4) The department shall conduct a follow-up inspection within  
22 five business days or within the time period requested by the medical  
23 test site if more than five business days is needed to verify the  
24 violation necessitating the limited stop service has been corrected.

25 (5) The limited stop service shall be terminated when:

26 (a) The department verifies the violation necessitating the  
27 limited stop service has been corrected or the department determines  
28 that the medical test site has taken intermediate action to address  
29 the immediate jeopardy; and

30 (b) The medical test site establishes the ability to maintain  
31 correction of the violation previously found deficient.

32 (6) Except as otherwise provided, RCW 43.70.115 governs notice of  
33 actions taken by the department under subsection (1) of this section  
34 and provides the right to an adjudicative proceeding. Adjudicative  
35 proceedings and hearings under this section are governed by the  
36 administrative procedure act, chapter 34.05 RCW. The application for  
37 an adjudicative proceeding must be in writing, state the basis for  
38 contesting the adverse action, include a copy of the department's  
39 notice, be served on and received by the department within 28 days of

1 the medical test site's receipt of the adverse notice, and be served  
2 in a manner that shows proof of receipt.

3 (7) When the department determines a licensee's noncompliance  
4 results in immediate jeopardy, the department may make the imposition  
5 of conditions on a licensee, a limited stop service, or the  
6 suspension of a license effective immediately upon receipt of the  
7 notice by the licensee, pending any adjudicative proceeding.

8 (a) When the department makes the suspension of a license or  
9 imposition of conditions on a license effective immediately, a  
10 licensee is entitled to a show cause hearing before a presiding  
11 officer within 14 days of making the request. The licensee must  
12 request the show cause hearing within 28 days of receipt of the  
13 notice of immediate suspension or immediate imposition of conditions.  
14 At the show cause hearing the department has the burden of  
15 demonstrating that more probably than not there is an immediate  
16 jeopardy.

17 (b) At the show cause hearing, the presiding officer may consider  
18 the notice and documents supporting the immediate suspension or  
19 immediate imposition of conditions and the licensee's response and  
20 shall provide the parties with an opportunity to provide documentary  
21 evidence and written testimony, and to be represented by counsel.  
22 Prior to the show cause hearing, the department shall provide the  
23 licensee with all documentation that supports the department's  
24 immediate suspension or imposition of conditions.

25 (c) If the presiding officer determines there is no immediate  
26 jeopardy, the presiding officer may overturn the immediate suspension  
27 or immediate imposition of conditions.

28 (d) If the presiding officer determines there is immediate  
29 jeopardy, the immediate suspension or immediate imposition of  
30 conditions shall remain in effect pending a full hearing.

31 (e) If the presiding officer sustains the immediate suspension or  
32 immediate imposition of conditions, the licensee may request an  
33 expedited full hearing on the merits of the department's action. A  
34 full hearing must be provided within 90 days of the licensee's  
35 request.

36 (8) When the department determines an alleged violation, if true,  
37 would constitute an immediate jeopardy, and the licensee fails to  
38 cooperate with the department's investigation of such an alleged  
39 violation, the department may impose an immediate limited stop  
40 service, immediate suspension, or immediate imposition of conditions.

1 (a) When the department imposes an immediate limited stop  
2 service, immediate suspension, or immediate imposition of conditions  
3 for failure to cooperate, a licensee is entitled to a show cause  
4 hearing before a presiding officer within 14 days of making the  
5 request. The licensee must request the show cause hearing within 28  
6 days of receipt of the notice of an immediate limited stop service,  
7 immediate suspension, or immediate imposition of conditions for  
8 failure to cooperate. At the show cause hearing the department has  
9 the burden of demonstrating that more probably than not the alleged  
10 violation, if true, would constitute an immediate jeopardy and the  
11 licensee failed to cooperate with the department's investigation.

12 (b) At the show cause hearing, the presiding officer may consider  
13 the notice and documents supporting the immediate limited stop  
14 service, immediate suspension, or immediate imposition of conditions  
15 for failure to cooperate, and the licensee's response and shall  
16 provide the parties with an opportunity to provide documentary  
17 evidence and written testimony, and to be represented by counsel.  
18 Prior to the show cause hearing, the department shall provide the  
19 licensee with all documentation that supports the department's  
20 immediate action for failure to cooperate.

21 (c) If the presiding officer determines the alleged violation, if  
22 true, does not constitute an immediate jeopardy or determines that  
23 the licensee cooperated with the department's investigation, the  
24 presiding officer may overturn the immediate action for failure to  
25 cooperate.

26 (d) If the presiding officer determines the allegation, if true,  
27 would constitute an immediate jeopardy and the licensee failed to  
28 cooperate with the department's investigation, the immediate action  
29 for failure to cooperate shall remain in effect pending a full  
30 hearing.

31 (e) If the presiding officer sustains the immediate action for  
32 failure to cooperate, the licensee may request an expedited full  
33 hearing on the merits of the department's action. A full hearing must  
34 be provided within 90 days of the licensee's request.

35 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.42  
36 RCW to read as follows:

37 (1) The department may give written notice to cease and desist to  
38 any person whom the department has reason to believe is engaged in  
39 the unlicensed operation of a medical test site.

1 (2) (a) Except as otherwise provided in this section, the  
2 requirement to cease and desist unlicensed operation is effective 20  
3 days after the person receives the notice.

4 (b) The department may make the date the action is effective  
5 sooner than 20 days after receipt when necessary to protect the  
6 public health, safety, or welfare. When the department does so, it  
7 shall state the effective date and the reasons supporting the  
8 effective date in the written notice to cease and desist.

9 (3) The person to whom the notice to cease and desist is issued  
10 may request an adjudicative proceeding to contest the notice. The  
11 adjudicative proceeding is governed by the administrative procedure  
12 act, chapter 34.05 RCW. The request for an adjudicative proceeding  
13 must be in writing, state the basis for contesting the notice,  
14 include a copy of the notice, and be served on and received by the  
15 department within 20 days from the date the person receives the  
16 notice to cease and desist.

17 (4) (a) If the department gives a person 20 days' notice to cease  
18 and desist and the person requests an adjudicative proceeding before  
19 its effective date, the department shall not implement the notice  
20 until the final order has been entered. The presiding or reviewing  
21 officer may permit the department to implement part or all of the  
22 notice while the proceedings are pending if the respondent causes an  
23 unreasonable delay in the proceeding, if the circumstances change so  
24 that implementation is in the public interest, or for other good  
25 cause.

26 (b) If the department gives a licensee less than 20 days' notice  
27 to cease and desist and the respondent timely files a request for an  
28 adjudicative proceeding, the department may implement the cease and  
29 desist on the effective date stated in the notice. The presiding or  
30 reviewing officer may order the department to stay implementation of  
31 part or all of the adverse action while the proceedings are pending  
32 if staying implementation is in the public interest or for other good  
33 cause.

34 (5) The department may assess a civil fine not exceeding \$5,000  
35 for each day a person operates a medical test site without a valid  
36 license.

37 (a) The department shall give written notice to the person  
38 against whom it assesses a civil fine.

39 (b) Except as otherwise provided in (c) and (d) of this  
40 subsection, the civil fine is due and payable 20 days after receipt.

1 (c) The person against whom the department assesses a civil fine  
2 has the right to request an adjudicative proceeding. The proceeding  
3 is governed by the administrative procedure act, chapter 34.05 RCW.  
4 The request must be in writing, state the basis for contesting the  
5 fine, include a copy of the notice, be served on and received by the  
6 department within 20 days of the person receiving the notice of civil  
7 fine, and be served in a manner which shows proof of receipt.

8 (d) If the person files a timely and sufficient request for  
9 adjudicative proceeding, the department shall not implement the fine  
10 until the final order has been served.

11 (6) Neither the issuance of a cease and desist order nor payment  
12 of a civil fine shall relieve the person so operating a medical test  
13 site without a license from criminal prosecution, but the remedy of a  
14 cease and desist order or civil fine shall be in addition to any  
15 criminal liability. A final notice to cease and desist is conclusive  
16 proof of unlicensed operation and may be enforced under RCW 7.21.060.  
17 This method of enforcement of the final notice to cease and desist or  
18 civil fine may be used in addition to, or as an alternative to, any  
19 provisions for enforcement of agency orders set out in chapter 34.05  
20 RCW.

21 **Sec. 9.** RCW 70.42.180 and 1989 c 386 s 19 are each amended to  
22 read as follows:

23 (1) Notwithstanding the existence or use of any other remedy, the  
24 department may, in the manner provided by law and upon the advice of  
25 the attorney general, who shall represent the department in the  
26 proceedings, maintain an action in the name of the state for an  
27 injunction or other process against any person to restrain or prevent  
28 the advertising, operating, maintaining, managing, or opening of a  
29 test site without a license under this chapter. It is a misdemeanor  
30 to own, operate, or maintain a test site without a license.

31 (2) The injunction shall not relieve the person operating a  
32 medical test site without a license from criminal prosecution, or the  
33 imposition of a civil fine under section 8 of this act, but the  
34 remedy by injunction shall be in addition to any criminal liability  
35 or civil fine. A person that violates an injunction issued under this  
36 chapter shall pay a civil penalty, as determined by the court, of not  
37 more than \$25,000, which shall be deposited in the department's local  
38 fee account. For the purpose of this section, the superior court  
39 issuing any injunction shall retain jurisdiction and the cause shall

1 be continued, and in such cases the attorney general acting in the  
2 name of the state may petition for the recovery of civil penalties.  
3 All fines, forfeitures, and penalties collected or assessed by a  
4 court because of a violation of RCW 70.42.020 shall be deposited in  
5 the department's local fee account.

6 **Sec. 10.** RCW 70.127.010 and 2011 c 89 s 13 are each amended to  
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10 (1) "Administrator" means an individual responsible for managing  
11 the operation of an agency.

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

13 (3) "Director of clinical services" means an individual  
14 responsible for nursing, therapy, nutritional, social, and related  
15 services that support the plan of care provided by in-home health and  
16 hospice agencies.

17 (4) "Family" means individuals who are important to, and  
18 designated by, the patient or client and who need not be relatives.

19 (5) "Home care agency" means a person administering or providing  
20 home care services directly or through a contract arrangement to  
21 individuals in places of temporary or permanent residence. A home  
22 care agency that provides delegated tasks of nursing under RCW  
23 18.79.260(3)(e) is not considered a home health agency for the  
24 purposes of this chapter.

25 (6) "Home care services" means nonmedical services and assistance  
26 provided to ill, disabled, or vulnerable individuals that enable them  
27 to remain in their residences. Home care services include, but are  
28 not limited to: Personal care such as assistance with dressing,  
29 feeding, and personal hygiene to facilitate self-care; homemaker  
30 assistance with household tasks, such as housekeeping, shopping, meal  
31 planning and preparation, and transportation; respite care assistance  
32 and support provided to the family; or other nonmedical services or  
33 delegated tasks of nursing under RCW 18.79.260(3)(e).

34 (7) "Home health agency" means a person administering or  
35 providing two or more home health services directly or through a  
36 contract arrangement to individuals in places of temporary or  
37 permanent residence. A person administering or providing nursing  
38 services only may elect to be designated a home health agency for  
39 purposes of licensure.



1 (8) "Home health services" means services provided to ill,  
2 disabled, or vulnerable individuals. These services include but are  
3 not limited to nursing services, home health aide services, physical  
4 therapy services, occupational therapy services, speech therapy  
5 services, respiratory therapy services, nutritional services, medical  
6 social services, and home medical supplies or equipment services.

7 (9) "Home health aide services" means services provided by a home  
8 health agency or a hospice agency under the supervision of a  
9 registered nurse, physical therapist, occupational therapist, or  
10 speech therapist who is employed by or under contract to a home  
11 health or hospice agency. Such care includes ambulation and exercise,  
12 assistance with self-administered medications, reporting changes in  
13 patients' conditions and needs, completing appropriate records, and  
14 personal care or homemaker services.

15 (10) "Home medical supplies" or "equipment services" means  
16 diagnostic, treatment, and monitoring equipment and supplies provided  
17 for the direct care of individuals within a plan of care.

18 (11) "Hospice agency" means a person administering or providing  
19 hospice services directly or through a contract arrangement to  
20 individuals in places of temporary or permanent residence under the  
21 direction of an interdisciplinary team composed of at least a nurse,  
22 social worker, physician, spiritual counselor, and a volunteer.

23 (12) "Hospice care center" means a homelike, noninstitutional  
24 facility where hospice services are provided, and that meets the  
25 requirements for operation under RCW 70.127.280.

26 (13) "Hospice services" means symptom and pain management  
27 provided to a terminally ill individual, and emotional, spiritual,  
28 and bereavement support for the individual and family in a place of  
29 temporary or permanent residence, and may include the provision of  
30 home health and home care services for the terminally ill individual.

31 (14) "Immediate jeopardy" means a situation in which the in-home  
32 services agency's noncompliance with one or more statutory or  
33 regulatory requirements has placed the health and safety of patients  
34 in its care at risk for serious injury, serious harm, serious  
35 impairment, or death.

36 (15) "In-home services agency" means a person licensed to  
37 administer or provide home health, home care, hospice services, or  
38 hospice care center services directly or through a contract  
39 arrangement to individuals in a place of temporary or permanent  
40 residence.

1        ~~((15))~~ (16) "Person" means any individual, business, firm,  
2 partnership, corporation, company, association, joint stock  
3 association, public or private agency or organization, or the legal  
4 successor thereof that employs or contracts with two or more  
5 individuals.

6        ~~((16))~~ (17) "Plan of care" means a written document based on  
7 assessment of individual needs that identifies services to meet these  
8 needs.

9        ~~((17))~~ (18) "Quality improvement" means reviewing and  
10 evaluating appropriateness and effectiveness of services provided  
11 under this chapter.

12        ~~((18))~~ (19) "Service area" means the geographic area in which  
13 the department has given prior approval to a licensee to provide home  
14 health, hospice, or home care services.

15        ~~((19))~~ (20) "Social worker" means a person with a degree from a  
16 social work educational program accredited and approved as provided  
17 in RCW 18.320.010 or who meets qualifications provided in 42 C.F.R.  
18 Sec. 418.114 as it existed on January 1, 2012.

19        ~~((20))~~ (21) "Survey" means an inspection conducted by the  
20 department to evaluate and monitor an agency's compliance with this  
21 chapter.

22        **Sec. 11.** RCW 70.127.170 and 2003 c 140 s 10 are each amended to  
23 read as follows:

24        ~~((Pursuant to chapter 34.05 RCW and RCW 70.127.180(3), the  
25 department may deny, restrict, condition, modify, suspend, or revoke  
26 a license under this chapter or, in lieu thereof or in addition  
27 thereto, assess monetary penalties of a civil nature not to exceed  
28 one thousand dollars per violation, or require a refund of any  
29 amounts billed to, and collected from, the consumer or third-party  
30 payor in any case in which it finds that the licensee, or any  
31 applicant, officer, director, partner, managing employee, or owner of  
32 ten percent or more of the applicant's or licensee's assets)) The  
33 department is authorized to take any of the actions identified in  
34 section 12 of this act against an in-home services agency's license  
35 in any case in which it finds that the licensee:~~

36        (1) Failed or refused to comply with the requirements of this  
37 chapter ~~((or the))~~, standards or rules adopted under this chapter, or  
38 other applicable state or federal statutes or rules regulating the  
39 facility or agency;

1 (2) Was the holder of a license issued pursuant to this chapter  
2 that was revoked for cause and never reissued by the department, or  
3 that was suspended for cause and the terms of the suspension have not  
4 been fulfilled and the licensee has continued to operate;

5 (3) Has knowingly or with reason to know made a misrepresentation  
6 of, false statement of, or failed to disclose, a material fact to the  
7 department in an application for the license or any data attached  
8 thereto or in any record required by this chapter or matter under  
9 investigation by the department, or during a survey, or concerning  
10 information requested by the department;

11 (4) Refused to allow representatives of the department to inspect  
12 any book, record, or file required by this chapter to be maintained  
13 or any portion of the licensee's premises;

14 (5) Willfully prevented, interfered with, or attempted to impede  
15 in any way the work of any representative of the department and the  
16 lawful enforcement of any provision of this chapter. This includes  
17 but is not limited to: Willful misrepresentation of facts during a  
18 survey, investigation, or administrative proceeding or any other  
19 legal action; or use of threats or harassment against any patient,  
20 client, or witness, or use of financial inducements to any patient,  
21 client, or witness to prevent or attempt to prevent him or her from  
22 providing evidence during a survey or investigation, in an  
23 administrative proceeding, or any other legal action involving the  
24 department;

25 (6) Willfully prevented or interfered with any representative of  
26 the department in the preservation of evidence of any violation of  
27 this chapter or the rules adopted under this chapter;

28 (7) Failed to pay any civil monetary penalty assessed by the  
29 department pursuant to this chapter within (~~ten~~) 10 days after the  
30 assessment becomes final;

31 (8) Used advertising that is false, fraudulent, or misleading;

32 (9) Has repeated incidents of personnel performing services  
33 beyond their authorized scope of practice;

34 (10) Misrepresented or was fraudulent in any aspect of the  
35 conduct of the licensee's business;

36 (11) Within the last five years, has been found in a civil or  
37 criminal proceeding to have committed any act that reasonably relates  
38 to the person's fitness to establish, maintain, or administer an  
39 agency or to provide care in the home of another;

1 (12) Was the holder of a license to provide care or treatment to  
2 ill individuals, (~~(disabled, or)~~) vulnerable individuals, or  
3 individuals with disabilities that was denied, restricted, not  
4 renewed, surrendered, suspended, or revoked by a competent authority  
5 in any state, federal, or foreign jurisdiction. A certified copy of  
6 the order, stipulation, or agreement is conclusive evidence of the  
7 denial, restriction, nonrenewal, surrender, suspension, or  
8 revocation;

9 (~~(13) (Violated any state or federal statute, or administrative~~  
10 ~~rule regulating the operation of the agency;~~

11 ~~(14))~~ Failed to comply with an order issued by the secretary or  
12 designee;

13 (~~(15))~~ (14) Aided or abetted the unlicensed operation of an in-  
14 home services agency;

15 (~~(16))~~ (15) Operated beyond the scope of the in-home services  
16 agency license;

17 (~~(17))~~ (16) Failed to adequately supervise staff to the extent  
18 that the health or safety of a patient or client was at risk;

19 (~~(18))~~ (17) Compromised the health or safety of a patient or  
20 client, including, but not limited to, the individual performing  
21 services beyond their authorized scope of practice;

22 (~~(19))~~ (18) Continued to operate after license revocation,  
23 suspension, or expiration, or operating outside the parameters of a  
24 modified, conditioned, or restricted license;

25 (~~(20))~~ (19) Failed or refused to comply with chapter 70.02 RCW;

26 (~~(21))~~ (20) Abused, neglected, abandoned, or financially  
27 exploited a patient or client as these terms are defined in RCW  
28 74.34.020;

29 (~~(22))~~ (21) Misappropriated the property of an individual;

30 (~~(23))~~ (22) Is unqualified or unable to operate or direct the  
31 operation of the agency according to this chapter and the rules  
32 adopted under this chapter;

33 (~~(24))~~ (23) Obtained or attempted to obtain a license by  
34 fraudulent means or misrepresentation; or

35 (~~(25))~~ (24) Failed to report abuse or neglect of a patient or  
36 client in violation of chapter 74.34 RCW.

37 NEW SECTION. Sec. 12. A new section is added to chapter 70.127  
38 RCW to read as follows:

1 (1) When the department determines the in-home services agency  
2 has previously been subject to an enforcement action for the same or  
3 similar type of violation of the same statute or rule, or has been  
4 given any previous statement of deficiency that included the same or  
5 similar type of violation of the same or similar statute or rule, or  
6 when the in-home services agency failed to correct noncompliance with  
7 a statute or rule by a date established or agreed to by the  
8 department, the department may impose reasonable conditions on a  
9 license. Conditions may include correction within a specified amount  
10 of time, training, or hiring a department-approved consultant if the  
11 in-home services agency cannot demonstrate to the department that it  
12 has access to sufficient internal expertise. If the department  
13 determines that the violations constitute immediate jeopardy, the  
14 conditions may be imposed immediately in accordance with subsection  
15 (5) of this section.

16 (2) (a) In accordance with the authority the department has under  
17 RCW 43.70.095, the department may assess a civil fine of up to \$3,000  
18 per violation on an in-home services agency licensed under this  
19 chapter when the department determines the in-home services agency  
20 has previously been subject to an enforcement action for the same or  
21 similar type of violation of the same statute or rule, or has been  
22 given any previous statement of deficiency that included the same or  
23 similar type of violation of the same or similar statute or rule, or  
24 when the in-home services agency failed to correct noncompliance with  
25 a statute or rule by a date established or agreed to by the  
26 department.

27 (b) Proceeds from these fines may only be used by the department  
28 to offset costs associated with licensing and enforcement of in-home  
29 services agencies.

30 (c) The department shall adopt in rules under this chapter  
31 specific fine amounts in relation to the severity of the  
32 noncompliance and at an adequate level to be a deterrent to future  
33 noncompliance.

34 (d) If a licensee is aggrieved by the department's action of  
35 assessing civil fines, the licensee has the right to appeal under RCW  
36 43.70.095.

37 (3) The department may suspend a specific category or categories  
38 of services or care that the in-home services agency provides as  
39 related to the violation by imposing a limited stop service. This may

1 only be done if the department finds that noncompliance results in  
2 immediate jeopardy.

3 (a) Prior to imposing a limited stop service, the department  
4 shall provide an in-home services agency written notification upon  
5 identifying deficient practices or conditions that constitute an  
6 immediate jeopardy. The in-home services agency shall have 24 hours  
7 from notification to develop and implement a department-approved plan  
8 to correct the deficient practices or conditions that constitute an  
9 immediate jeopardy. If the deficient practices or conditions that  
10 constitute immediate jeopardy are not verified by the department as  
11 having been corrected within the same 24-hour period, the department  
12 may issue the limited stop service.

13 (b) When the department imposes a limited stop service, the in-  
14 home services agency may not provide the services in the category or  
15 categories subject to the limited stop service to any new or existing  
16 individuals until the limited stop service is terminated.

17 (c) The department shall conduct a follow-up inspection within  
18 five business days or within the time period requested by the in-home  
19 services agency if more than five business days is needed to verify  
20 the violation necessitating the limited stop service has been  
21 corrected.

22 (d) The limited stop service shall be terminated when:

23 (i) The department verifies the violation necessitating the  
24 limited stop service has been corrected or the department determines  
25 that the in-home services agency has taken intermediate action to  
26 address the immediate jeopardy; and

27 (ii) The in-home services agency establishes the ability to  
28 maintain correction of the violation previously found deficient.

29 (4) The department may suspend new admissions to an in-home  
30 services agency that qualifies as a hospice care center by imposing a  
31 stop placement. This may only be done if the department finds that  
32 noncompliance results in immediate jeopardy and is not confined to a  
33 specific category or categories of services or care that the hospice  
34 care center provides.

35 (a) Prior to imposing a stop placement, the department shall  
36 provide an in-home services agency that qualifies as a hospice care  
37 center written notification upon identifying deficient practices or  
38 conditions that constitute an immediate jeopardy. The hospice care  
39 center shall have 24 hours from notification to develop and implement  
40 a department-approved plan to correct the deficient practices or

1 conditions that constitute an immediate jeopardy. If the deficient  
2 practices or conditions that constitute immediate jeopardy are not  
3 verified by the department as having been corrected within the same  
4 24-hour period, the department may issue the stop placement.

5 (b) When the department imposes a stop placement, the hospice  
6 care center may not admit any new patients until the stop placement  
7 is terminated.

8 (c) The department shall conduct a follow-up inspection within  
9 five business days or within the time period requested by the hospice  
10 care center if more than five business days is needed to verify the  
11 violation necessitating the stop placement has been corrected.

12 (d) The stop placement shall be terminated when:

13 (i) The department verifies the violation necessitating the stop  
14 placement has been corrected or the department determines that the  
15 hospice care center has taken intermediate action to address the  
16 immediate jeopardy; and

17 (ii) The hospice care center establishes the ability to maintain  
18 correction of the violation previously found deficient.

19 (5) The department may deny an application for a license or  
20 suspend, revoke, or refuse to renew a license.

21 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.127  
22 RCW to read as follows:

23 (1) Except as otherwise provided, RCW 43.70.115 governs notice of  
24 the imposition of conditions on a license, a limited stop service,  
25 stop placement, or the suspension, revocation, or refusal to renew a  
26 license and provides the right to an adjudicative proceeding.  
27 Adjudicative proceedings and hearings under this section are governed  
28 by the administrative procedure act, chapter 34.05 RCW. The  
29 application for an adjudicative proceeding must be in writing, state  
30 the basis for contesting the adverse action, include a copy of the  
31 department's notice, be served on and received by the department  
32 within 28 days of the licensee's receipt of the adverse notice, and  
33 be served in a manner that shows proof of receipt.

34 (2) When the department determines a licensee's noncompliance  
35 results in immediate jeopardy, the department may make the imposition  
36 of conditions on a licensee, a limited stop service, stop placement,  
37 or the suspension of a license effective immediately upon receipt of  
38 the notice by the licensee, pending any adjudicative proceeding.

1 (a) When the department makes the suspension of a license or  
2 imposition of conditions on a license effective immediately, a  
3 licensee is entitled to a show cause hearing before a presiding  
4 officer within 14 days of making the request. The licensee must  
5 request the show cause hearing within 28 days of receipt of the  
6 notice of immediate suspension or immediate imposition of conditions.  
7 At the show cause hearing the department has the burden of  
8 demonstrating that more probably than not there is immediate  
9 jeopardy.

10 (b) At the show cause hearing, the presiding officer may consider  
11 the notice and documents supporting the immediate suspension or  
12 immediate imposition of conditions and the licensee's response and  
13 shall provide the parties with an opportunity to provide documentary  
14 evidence and written testimony, and to be represented by counsel.  
15 Prior to the show cause hearing, the department shall provide the  
16 licensee with all documentation that supports the department's  
17 immediate suspension or imposition of conditions.

18 (c) If the presiding officer determines there is no immediate  
19 jeopardy, the presiding officer may overturn the immediate suspension  
20 or immediate imposition of conditions.

21 (d) If the presiding officer determines there is immediate  
22 jeopardy, the immediate suspension or immediate imposition of  
23 conditions shall remain in effect pending a full hearing.

24 (e) If the presiding officer sustains the immediate suspension or  
25 immediate imposition of conditions, the licensee may request an  
26 expedited full hearing on the merits of the department's action. A  
27 full hearing must be provided within 90 days of the licensee's  
28 request.

29 (3) When the department determines an alleged violation, if true,  
30 would constitute an immediate jeopardy, and the licensee fails to  
31 cooperate with the department's investigation of such an alleged  
32 violation, the department may impose an immediate stop placement,  
33 immediate limited stop service, immediate imposition of conditions,  
34 or immediate suspension.

35 (a) When the department imposes an immediate stop placement,  
36 immediate limited stop service, immediate imposition of conditions,  
37 or immediate suspension for failure to cooperate, a licensee is  
38 entitled to a show cause hearing before a presiding officer within 14  
39 days of making the request. The licensee must request the show cause  
40 hearing within 28 days of receipt of the notice of an immediate stop



1 placement, immediate limited stop service, immediate imposition of  
2 conditions, or immediate suspension for failure to cooperate. At the  
3 show cause hearing the department has the burden of demonstrating  
4 that more probably than not the alleged violation, if true, would  
5 constitute an immediate jeopardy and the licensee failed to cooperate  
6 with the department's investigation.

7 (b) At the show cause hearing, the presiding officer may consider  
8 the notice and documents supporting the immediate stop placement,  
9 immediate limited stop service, immediate imposition of conditions,  
10 or immediate suspension for failure to cooperate, and the licensee's  
11 response and shall provide the parties with an opportunity to provide  
12 documentary evidence and written testimony, and to be represented by  
13 counsel. Prior to the show cause hearing, the department shall  
14 provide the licensee with all documentation that supports the  
15 department's immediate action for failure to cooperate.

16 (c) If the presiding officer determines the alleged violation, if  
17 true, does not constitute an immediate jeopardy or determines that  
18 the licensee cooperated with the department's investigation, the  
19 presiding officer may overturn the immediate action for failure to  
20 cooperate.

21 (d) If the presiding officer determines the allegation, if true,  
22 would constitute an immediate jeopardy and the licensee failed to  
23 cooperate with the department's investigation, the immediate action  
24 for failure to cooperate shall remain in effect pending a full  
25 hearing.

26 (e) If the presiding officer sustains the immediate action for  
27 failure to cooperate, the licensee may request an expedited full  
28 hearing on the merits of the department's action. A full hearing must  
29 be provided within 90 days of the licensee's request.

30 **Sec. 14.** RCW 70.127.213 and 2000 c 175 s 19 are each amended to  
31 read as follows:

32 (1) The department may (~~issue a notice of intention to issue a~~)  
33 give written notice to cease and desist (~~order~~) to any person whom  
34 the department has reason to believe is engaged in the unlicensed  
35 operation of an in-home services agency. (~~The person to whom the~~  
36 ~~notice of intent is issued may request an adjudicative proceeding to~~  
37 ~~contest the charges. The request for hearing must be filed within~~  
38 ~~twenty days after service of the notice of intent to issue a cease~~  
39 ~~and desist order. The failure to request a hearing constitutes a~~

1 ~~default, whereupon the department may enter a permanent cease and~~  
2 ~~desist order, which may include a civil fine. All proceedings shall~~  
3 ~~be conducted in accordance with chapter 34.05 RCW.~~

4 ~~(2) If the department makes a final determination that a person~~  
5 ~~has engaged or is engaging in unlicensed operation of an in-home~~  
6 ~~services agency, the department may issue a cease and desist order.~~  
7 ~~In addition, the department may impose a civil fine in an amount not~~  
8 ~~exceeding one thousand dollars for each day upon which the person~~  
9 ~~engaged in unlicensed operation of an in-home services agency. The~~  
10 ~~proceeds of such fines shall be deposited in the department's local~~  
11 ~~fee account.~~

12 ~~(3) If the department makes a written finding of fact that the~~  
13 ~~public interest will be irreparably harmed by delay in issuing an~~  
14 ~~order, the department may issue a temporary cease and desist order.~~  
15 ~~The person receiving a temporary cease and desist order shall be~~  
16 ~~provided an opportunity for a prompt hearing. The temporary cease and~~  
17 ~~desist order shall remain in effect until further order of the~~  
18 ~~department. The failure to request a prompt or regularly scheduled~~  
19 ~~hearing constitutes a default, whereupon the department may enter a~~  
20 ~~permanent cease and desist order, which may include a civil fine.~~

21 ~~(4) Neither the issuance of a cease and desist order nor payment~~  
22 ~~of a civil fine shall relieve the person so operating an in-home~~  
23 ~~services agency without a license from criminal prosecution, but the~~  
24 ~~remedy of a cease and desist order or civil fine shall be in addition~~  
25 ~~to any criminal liability. The cease and desist order is conclusive~~  
26 ~~proof of unlicensed operation and may be enforced under RCW 7.21.060.~~  
27 ~~This method of enforcement of the cease and desist order or civil~~  
28 ~~fine may be used in addition to, or as an alternative to, any~~  
29 ~~provisions for enforcement of agency orders set out in chapter 34.05~~  
30 ~~RCW.) )~~

31 (2) (a) Except as otherwise provided in this section, the  
32 requirement to cease and desist unlicensed operation is effective 20  
33 days after the person receives the notice.

34 (b) The department may make the date the action is effective  
35 sooner than 20 days after receipt when necessary to protect the  
36 public health, safety, or welfare. When the department does so, it  
37 shall state the effective date and the reasons supporting the  
38 effective date in the written notice to cease and desist.

39 (3) The person to whom the notice to cease and desist is issued  
40 may request an adjudicative proceeding to contest the notice. The

1 adjudicative proceeding is governed by the administrative procedure  
2 act, chapter 34.05 RCW. The request for an adjudicative proceeding  
3 must be in writing, state the basis for contesting the notice,  
4 include a copy of the notice, and be served on and received by the  
5 department within 20 days from the date the person receives the  
6 notice to cease and desist.

7 (4) (a) If the department gives a person 20 days' notice to cease  
8 and desist and the person requests an adjudicative proceeding before  
9 its effective date, the department shall not implement the notice  
10 until the final order has been entered. The presiding or reviewing  
11 officer may permit the department to implement part or all of the  
12 notice while the proceedings are pending if the respondent causes an  
13 unreasonable delay in the proceeding, if the circumstances change so  
14 that implementation is in the public interest, or for other good  
15 cause.

16 (b) If the department gives a licensee less than 20 days' notice  
17 to cease and desist and the respondent timely files a request for an  
18 adjudicative proceeding, the department may implement the cease and  
19 desist on the effective date stated in the notice. The presiding or  
20 reviewing officer may order the department to stay implementation of  
21 part or all of the adverse action while the proceedings are pending  
22 if staying implementation is in the public interest or for other good  
23 cause.

24 (5) The department may assess a civil fine not exceeding \$5,000  
25 for each day a person operates an in-home services agency without a  
26 valid license.

27 (a) The department shall give written notice to the person  
28 against whom it assesses a civil fine.

29 (b) Except as otherwise provided in (c) and (d) of this  
30 subsection, the civil fine is due and payable 20 days after receipt.

31 (c) The person against whom the department assesses a civil fine  
32 has the right to request an adjudicative proceeding. The proceeding  
33 is governed by the administrative procedure act, chapter 34.05 RCW.  
34 The request must be in writing, state the basis for contesting the  
35 fine, include a copy of the notice, be served on and received by the  
36 department within 20 days of the person receiving the notice of civil  
37 fine, and be served in a manner which shows proof of receipt.

38 (d) If the person files a timely and sufficient request for  
39 adjudicative proceeding, the department shall not implement the fine  
40 until the final order has been served.

1       (6) Neither the issuance of a cease and desist order nor payment  
2 of a civil fine shall relieve the person so operating an in-home  
3 services agency without a license from criminal prosecution, but the  
4 remedy of a cease and desist order or civil fine shall be in addition  
5 to any criminal liability. A final notice to cease and desist is  
6 conclusive proof of unlicensed operation and may be enforced under  
7 RCW 7.21.060. This method of enforcement of the final notice to cease  
8 and desist or civil fine may be used in addition to, or as an  
9 alternative to, any provisions for enforcement of agency orders set  
10 out in chapter 34.05 RCW.

11       **Sec. 15.** RCW 70.230.010 and 2011 c 76 s 1 are each amended to  
12 read as follows:

13       The definitions in this section apply throughout this chapter  
14 unless the context clearly requires otherwise.

15       (1) "Ambulatory surgical facility" means any distinct entity that  
16 operates for the primary purpose of providing specialty or  
17 multispecialty outpatient surgical services in which patients are  
18 admitted to and discharged from the facility within (~~twenty-four~~)  
19 24 hours and do not require inpatient hospitalization, whether or not  
20 the facility is certified under Title XVIII of the federal social  
21 security act. An ambulatory surgical facility includes one or more  
22 surgical suites that are adjacent to and within the same building as,  
23 but not in, the office of a practitioner in an individual or group  
24 practice, if the primary purpose of the one or more surgical suites  
25 is to provide specialty or multispecialty outpatient surgical  
26 services, irrespective of the type of anesthesia administered in the  
27 one or more surgical suites. An ambulatory surgical facility that is  
28 adjacent to and within the same building as the office of a  
29 practitioner in an individual or group practice may include a  
30 surgical suite that shares a reception area, restroom, waiting room,  
31 or wall with the office of the practitioner in an individual or group  
32 practice.

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

34       (3) "General anesthesia" means a state of unconsciousness  
35 intentionally produced by anesthetic agents, with absence of pain  
36 sensation over the entire body, in which the patient is without  
37 protective reflexes and is unable to maintain an airway.

38       (4) "Immediate jeopardy" means a situation in which the  
39 ambulatory surgical facility's noncompliance with one or more

1 statutory or regulatory requirements has placed the health and safety  
2 of patients in its care at risk for serious injury, serious harm,  
3 serious impairment, or death.

4 (5) "Person" means an individual, firm, partnership, corporation,  
5 company, association, joint stock association, and the legal  
6 successor thereof.

7 ((+5)) (6) "Practitioner" means any physician or surgeon  
8 licensed under chapter 18.71 RCW, an osteopathic physician or surgeon  
9 licensed under chapter 18.57 RCW, or a podiatric physician or surgeon  
10 licensed under chapter 18.22 RCW.

11 ((+6)) (7) "Secretary" means the secretary of health.

12 ((+7)) (8) "Surgical services" means invasive medical procedures  
13 that:

14 (a) Utilize a knife, laser, cautery, cryogenics, or chemicals;  
15 and

16 (b) Remove, correct, or facilitate the diagnosis or cure of a  
17 disease, process, or injury through that branch of medicine that  
18 treats diseases, injuries, and deformities by manual or operative  
19 methods by a practitioner.

20 **Sec. 16.** RCW 70.230.070 and 2007 c 273 s 8 are each amended to  
21 read as follows:

22 (1) ~~((The secretary may deny, suspend, or revoke the license of~~  
23 ~~any ambulatory surgical facility in any case in which he or she finds~~  
24 ~~the applicant or registered entity knowingly made a false statement~~  
25 ~~of material fact in the application for the license or any supporting~~  
26 ~~data in any record required by this chapter or matter under~~  
27 ~~investigation by the department.~~

28 ~~(2) The secretary shall investigate complaints concerning~~  
29 ~~operation of an ambulatory surgical facility without a license. The~~  
30 ~~secretary may issue a notice of intention to issue a cease and desist~~  
31 ~~order to any person whom the secretary has reason to believe is~~  
32 ~~engaged in the unlicensed operation of an ambulatory surgical~~  
33 ~~facility. If the secretary makes a written finding of fact that the~~  
34 ~~public interest will be irreparably harmed by delay in issuing an~~  
35 ~~order, the secretary may issue a temporary cease and desist order.~~  
36 ~~The person receiving a temporary cease and desist order shall be~~  
37 ~~provided an opportunity for a prompt hearing. The temporary cease and~~  
38 ~~desist order shall remain in effect until further order of the~~  
39 ~~secretary. Any person operating an ambulatory surgical facility under~~

1 ~~this chapter without a license is guilty of a misdemeanor, and each~~  
2 ~~day of operation of an unlicensed ambulatory surgical facility~~  
3 ~~constitutes a separate offense.~~

4 ~~(3) The secretary is authorized to deny, suspend, revoke, or~~  
5 ~~modify a license or provisional license in any case in which it finds~~  
6 ~~that there has been a failure or refusal to comply with the~~  
7 ~~requirements of this chapter or the standards or rules adopted under~~  
8 ~~this chapter. RCW 43.70.115 governs notice of a license denial,~~  
9 ~~revocation, suspension, or modification and provides the right to an~~  
10 ~~adjudicative proceeding.~~

11 ~~(4) Pursuant to chapter 34.05 RCW, the secretary may assess~~  
12 ~~monetary penalties of a civil nature not to exceed one thousand~~  
13 ~~dollars per violation.) The department is authorized to take any of~~  
14 ~~the actions identified in this section against an ambulatory surgical~~  
15 ~~facility's license or provisional license in any case in which it~~  
16 ~~finds that there has been a failure or refusal to comply with the~~  
17 ~~requirements of this chapter or the standards or rules adopted under~~  
18 ~~this chapter.~~

19 ~~(a) When the department determines the ambulatory surgical~~  
20 ~~facility has previously been subject to an enforcement action for the~~  
21 ~~same or similar type of violation of the same statute or rule, or has~~  
22 ~~been given any previous statement of deficiency that included the~~  
23 ~~same or similar type of violation of the same or similar statute or~~  
24 ~~rule, or when the ambulatory surgical facility failed to correct~~  
25 ~~noncompliance with a statute or rule by a date established or agreed~~  
26 ~~to by the department, the department may impose reasonable conditions~~  
27 ~~on a license. Conditions may include correction within a specified~~  
28 ~~amount of time, training, or hiring a department-approved consultant~~  
29 ~~if the ambulatory surgical facility cannot demonstrate to the~~  
30 ~~department that it has access to sufficient internal expertise.~~

31 ~~(b) (i) In accordance with the authority the department has under~~  
32 ~~RCW 43.70.095, the department may assess a civil fine of up to \$7,500~~  
33 ~~per violation on an ambulatory surgical facility licensed under this~~  
34 ~~chapter when the department determines the ambulatory surgical~~  
35 ~~facility has previously been subject to an enforcement action for the~~  
36 ~~same or similar type of violation of the same statute or rule, or has~~  
37 ~~been given any previous statement of deficiency that included the~~  
38 ~~same or similar type of violation of the same or similar statute or~~  
39 ~~rule, or when the ambulatory surgical facility failed to correct~~

1 noncompliance with a statute or rule by a date established or agreed  
2 to by the department.

3 (ii) Proceeds from these fines may only be used by the department  
4 to offset costs associated with licensing and enforcement of  
5 ambulatory surgical facilities.

6 (iii) If a licensee is aggrieved by the department's action of  
7 assessing civil fines, the licensee has the right to appeal under RCW  
8 43.70.095.

9 (iv) The department shall adopt in rules under this chapter  
10 specific fine amounts in relation to:

11 (A) The severity of the noncompliance and at an adequate level to  
12 be a deterrent to future noncompliance; and

13 (B) The number of surgical procedures performed by an ambulatory  
14 surgical facility on an annual basis as identified by the facility at  
15 the time of licensure or renewal in the following categories:

16 (I) Performs 1,000 or fewer surgical procedures;

17 (II) Performs between 1,001 and 5,000 surgical procedures; and

18 (III) Performs more than 5,000 surgical procedures.

19 (c) The department may suspend a specific category or categories  
20 of services or care or operating rooms or recovery rooms within the  
21 ambulatory surgical facility as related to the violation by imposing  
22 a limited stop service. This may only be done if the department finds  
23 that noncompliance results in immediate jeopardy.

24 (i) Prior to imposing a limited stop service, the department  
25 shall provide an ambulatory surgical facility written notification  
26 upon identifying deficient practices or conditions that constitute an  
27 immediate jeopardy. The ambulatory surgical facility shall have 24  
28 hours from notification to develop and implement a department-  
29 approved plan to correct the deficient practices or conditions that  
30 constitute an immediate jeopardy. If the deficient practices or  
31 conditions that constitute immediate jeopardy are not verified by the  
32 department as having been corrected within the same 24-hour period,  
33 the department may issue the limited stop service.

34 (ii) When the department imposes a limited stop service, the  
35 ambulatory surgical facility may not provide the services in the  
36 category or categories subject to the limited stop service to any new  
37 or existing individuals, unless otherwise allowed by the department,  
38 until the limited stop service is terminated.

39 (iii) The department shall conduct a follow-up inspection within  
40 five business days or within the time period requested by the

1 ambulatory surgical facility if more than five business days is  
2 needed to verify the violation necessitating the limited stop service  
3 has been corrected.

4 (iv) The limited stop service shall be terminated when:

5 (A) The department verifies the violation necessitating the  
6 limited stop service has been corrected or the department determines  
7 that the ambulatory surgical facility has taken intermediate action  
8 to address the immediate jeopardy; and

9 (B) The ambulatory surgical facility establishes the ability to  
10 maintain correction of the violation previously found deficient.

11 (d) The department may suspend new admissions to the ambulatory  
12 surgical facility by imposing a stop placement. This may only be done  
13 if the department finds that noncompliance results in immediate  
14 jeopardy and is not confined to a specific category or categories of  
15 patients or a specific area of the ambulatory surgical facility.

16 (i) Prior to imposing a stop placement, the department shall  
17 provide an ambulatory surgical facility written notification upon  
18 identifying deficient practices or conditions that constitute an  
19 immediate jeopardy. The ambulatory surgical facility shall have 24  
20 hours from notification to develop and implement a department-  
21 approved plan to correct the deficient practices or conditions that  
22 constitute an immediate jeopardy. If the deficient practices or  
23 conditions that constitute immediate jeopardy are not verified by the  
24 department as having been corrected within the same 24-hour period,  
25 the department may issue the stop placement.

26 (ii) When the department imposes a stop placement, the ambulatory  
27 surgical facility may not admit any new patients until the stop  
28 placement is terminated.

29 (iii) The department shall conduct a follow-up inspection within  
30 five business days or within the time period requested by the  
31 ambulatory surgical facility if more than five business days is  
32 needed to verify the violation necessitating the stop placement has  
33 been corrected.

34 (iv) The stop placement shall be terminated when:

35 (A) The department verifies the violation necessitating the stop  
36 placement has been corrected or the department determines that the  
37 ambulatory surgical facility has taken intermediate action to address  
38 the immediate jeopardy; and

39 (B) The ambulatory surgical facility establishes the ability to  
40 maintain correction of the violation previously found deficient.



1 (e) The department may deny an application for a license or  
2 suspend, revoke, or refuse to renew a license.

3 (2) The secretary may deny, suspend, or revoke the license of any  
4 ambulatory surgical facility in any case in which he or she finds the  
5 applicant or registered entity knowingly made a false statement of  
6 material fact in the application for the license or any supporting  
7 data in any record required by this chapter or matter under  
8 investigation by the department.

9 (3) Except as otherwise provided, RCW 43.70.115 governs notice of  
10 actions taken by the department under this section and provides the  
11 right to an adjudicative proceeding. Adjudicative proceedings and  
12 hearings under this section are governed by the administrative  
13 procedure act, chapter 34.05 RCW. The application for an adjudicative  
14 proceeding must be in writing, state the basis for contesting the  
15 adverse action, include a copy of the department's notice, be served  
16 on and received by the department within 28 days of the licensee's  
17 receipt of the adverse notice, and be served in a manner that shows  
18 proof of receipt.

19 (a) When the department determines a licensee's noncompliance  
20 results in immediate jeopardy, the department may make the imposition  
21 of conditions on a licensee, a limited stop service, stop placement,  
22 or the suspension of a license effective immediately upon receipt of  
23 the notice by the licensee, pending any adjudicative proceeding.

24 (b) When the department makes the suspension of a license or  
25 imposition of conditions on a license effective immediately, a  
26 licensee is entitled to a show cause hearing before a presiding  
27 officer within 14 days of making the request. The licensee must  
28 request the show cause hearing within 28 days of receipt of the  
29 notice of immediate suspension or immediate imposition of conditions.  
30 At the show cause hearing the department has the burden of  
31 demonstrating that more probably than not there is an immediate  
32 jeopardy.

33 (c) At the show cause hearing, the presiding officer may consider  
34 the notice and documents supporting the immediate suspension or  
35 immediate imposition of conditions and the licensee's response and  
36 shall provide the parties with an opportunity to provide documentary  
37 evidence and written testimony, and to be represented by counsel.  
38 Prior to the show cause hearing, the department shall provide the  
39 licensee with all documentation that supports the department's  
40 immediate suspension or imposition of conditions.

1 (d) If the presiding officer determines there is no immediate  
2 jeopardy, the presiding officer may overturn the immediate suspension  
3 or immediate imposition of conditions.

4 (e) If the presiding officer determines there is immediate  
5 jeopardy, the immediate suspension or immediate imposition of  
6 conditions shall remain in effect pending a full hearing.

7 (f) If the presiding officer sustains the immediate suspension or  
8 immediate imposition of conditions, the licensee may request an  
9 expedited full hearing on the merits of the department's action. A  
10 full hearing must be provided within 90 days of the licensee's  
11 request.

12 (4) When the department determines an alleged violation, if true,  
13 would constitute an immediate jeopardy, and the licensee fails to  
14 cooperate with the department's investigation of such an alleged  
15 violation, the department may impose an immediate stop placement,  
16 immediate limited stop service, immediate imposition of conditions,  
17 or immediate suspension.

18 (a) When the department imposes an immediate stop placement,  
19 immediate limited stop service, immediate imposition of conditions,  
20 or immediate suspension for failure to cooperate, a licensee is  
21 entitled to a show cause hearing before a presiding officer within 14  
22 days of making the request. The licensee must request the show cause  
23 hearing within 28 days of receipt of the notice of an immediate stop  
24 placement, immediate limited stop service, immediate imposition of  
25 conditions, or immediate suspension for failure to cooperate.

26 (b) At the show cause hearing the department has the burden of  
27 demonstrating that more probably than not the alleged violation, if  
28 true, would constitute an immediate jeopardy and the licensee failed  
29 to cooperate with the department's investigation.

30 (c) At the show cause hearing, the presiding officer may consider  
31 the notice and documents supporting the immediate stop placement,  
32 immediate limited stop service, immediate imposition of conditions,  
33 or immediate suspension for failure to cooperate, and the licensee's  
34 response and shall provide the parties with an opportunity to provide  
35 documentary evidence and written testimony, and to be represented by  
36 counsel. Prior to the show cause hearing, the department shall  
37 provide the licensee with all documentation that supports the  
38 department's immediate action for failure to cooperate.

39 (d) If the presiding officer determines the alleged violation, if  
40 true, does not constitute an immediate jeopardy or determines that

1 the licensee cooperated with the department's investigation, the  
2 presiding officer may overturn the immediate action for failure to  
3 cooperate.

4 (e) If the presiding officer determines the allegation, if true,  
5 would constitute an immediate jeopardy and the licensee failed to  
6 cooperate with the department's investigation, the immediate action  
7 for failure to cooperate shall remain in effect pending a full  
8 hearing.

9 (f) If the presiding officer sustains the immediate action for  
10 failure to cooperate, the licensee may request an expedited full  
11 hearing on the merits of the department's action. A full hearing must  
12 be provided within 90 days of the licensee's request.

13 NEW SECTION. Sec. 17. A new section is added to chapter 70.230  
14 RCW to read as follows:

15 (1) The department may give written notice to cease and desist to  
16 any person whom the department has reason to believe is engaged in  
17 the unlicensed operation of an ambulatory surgical facility.

18 (2)(a) Except as otherwise provided in this section, the  
19 requirement to cease and desist unlicensed operation is effective 20  
20 days after the person receives the notice.

21 (b) The department may make the date the action is effective  
22 sooner than 20 days after receipt when necessary to protect the  
23 public health, safety, or welfare. When the department does so, it  
24 shall state the effective date and the reasons supporting the  
25 effective date in the written notice to cease and desist.

26 (3) The person to whom the notice to cease and desist is issued  
27 may request an adjudicative proceeding to contest the notice. The  
28 adjudicative proceeding is governed by the administrative procedure  
29 act, chapter 34.05 RCW. The request for an adjudicative proceeding  
30 must be in writing, state the basis for contesting the notice,  
31 include a copy of the notice, and be served on and received by the  
32 department within 20 days from the date the person receives the  
33 notice to cease and desist.

34 (4)(a) If the department gives a person 20 days' notice to cease  
35 and desist and the person requests an adjudicative proceeding before  
36 its effective date, the department shall not implement the notice  
37 until the final order has been entered. The presiding or reviewing  
38 officer may permit the department to implement part or all of the  
39 notice while the proceedings are pending if the respondent causes an

1 unreasonable delay in the proceeding, if the circumstances change so  
2 that implementation is in the public interest, or for other good  
3 cause.

4 (b) If the department gives a licensee less than 20 days' notice  
5 to cease and desist and the respondent timely files a request for an  
6 adjudicative proceeding, the department may implement the cease and  
7 desist on the effective date stated in the notice. The presiding or  
8 reviewing officer may order the department to stay implementation of  
9 part or all of the adverse action while the proceedings are pending  
10 if staying implementation is in the public interest or for other good  
11 cause.

12 (5) The department may assess a civil fine not exceeding \$5,000  
13 for each day a person operates an ambulatory surgical facility  
14 without a valid license.

15 (a) The department shall give written notice to the person  
16 against whom it assesses a civil fine.

17 (b) Except as otherwise provided in (c) and (d) of this  
18 subsection, the civil fine is due and payable 20 days after receipt.

19 (c) The person against whom the department assesses a civil fine  
20 has the right to request an adjudicative proceeding. The proceeding  
21 is governed by the administrative procedure act, chapter 34.05 RCW.  
22 The request must be in writing, state the basis for contesting the  
23 fine, include a copy of the notice, be served on and received by the  
24 department within 20 days of the person receiving the notice of civil  
25 fine, and be served in a manner which shows proof of receipt.

26 (d) If the person files a timely and sufficient request for  
27 adjudicative proceeding, the department shall not implement the fine  
28 until the final order has been served.

29 (6) Neither the issuance of a cease and desist order nor payment  
30 of a civil fine shall relieve the person so operating an ambulatory  
31 surgical facility without a license from criminal prosecution, but  
32 the remedy of a cease and desist order or civil fine shall be in  
33 addition to any criminal liability. A final notice to cease and  
34 desist is conclusive proof of unlicensed operation and may be  
35 enforced under RCW 7.21.060. This method of enforcement of the final  
36 notice to cease and desist or civil fine may be used in addition to,  
37 or as an alternative to, any provisions for enforcement of agency  
38 orders set out in chapter 34.05 RCW.

1       **Sec. 18.** RCW 71.12.710 and 2020 c 115 s 3 are each amended to  
2 read as follows:

3       (1) In any case in which the department finds that a (~~licensed~~  
4 ~~psychiatric hospital~~) private establishment has failed or refused to  
5 comply with (~~applicable state~~) the requirements of this chapter,  
6 the standards or rules adopted under this chapter, or other  
7 applicable state or federal statutes or (~~regulations~~) rules, the  
8 department may take one or more of the actions identified in this  
9 section, except as otherwise limited in this section.

10       (a) When the department determines the (~~psychiatric hospital~~)  
11 private establishment has previously been subject to an enforcement  
12 action for the same or similar type of violation of the same statute  
13 or rule, or has been given any previous statement of deficiency that  
14 included the same or similar type of violation of the same or similar  
15 statute or rule, or when the (~~psychiatric hospital~~) private  
16 establishment failed to correct noncompliance with a statute or rule  
17 by a date established or agreed to by the department, the department  
18 may impose reasonable conditions on a license. Conditions may include  
19 correction within a specified amount of time, training, or hiring a  
20 department-approved consultant if the (~~hospital~~) private  
21 establishment cannot demonstrate to the department that it has access  
22 to sufficient internal expertise.

23       (b) (i) In accordance with the authority the department has under  
24 RCW 43.70.095, the department may assess a civil fine of up to (~~ten~~  
25 ~~thousand dollars~~) \$10,000 per violation, not to exceed a total fine  
26 of (~~one million dollars~~) \$1,000,000, on a (~~hospital~~) private  
27 establishment licensed under this chapter when the department  
28 determines the (~~psychiatric hospital~~) private establishment has  
29 previously been subject to an enforcement action for the same or  
30 similar type of violation of the same statute or rule, or has been  
31 given any previous statement of deficiency that included the same or  
32 similar type of violation of the same or similar statute or rule, or  
33 when the (~~psychiatric hospital~~) private establishment failed to  
34 correct noncompliance with a statute or rule by a date established or  
35 agreed to by the department.

36       (ii) Proceeds from these fines may only be used by the department  
37 to provide training or technical assistance to (~~psychiatric~~  
38 ~~hospitals and~~) private establishments or to offset costs associated  
39 with licensing (~~psychiatric hospitals~~) private establishments.

1 (iii) The department shall adopt in rules under this chapter  
2 specific fine amounts in relation to the severity of the  
3 noncompliance.

4 (iv) If a licensee is aggrieved by the department's action of  
5 assessing civil fines, the licensee has the right to appeal under RCW  
6 43.70.095.

7 ~~(c) ((In accordance with RCW 43.70.095, the department may impose  
8 civil fines of up to ten thousand dollars for each day a person  
9 operates a psychiatric hospital without a valid license. Proceeds  
10 from these fines may only be used by the department to provide  
11 training or technical assistance to psychiatric hospitals and to  
12 offset costs associated with licensing psychiatric hospitals.~~

13 ~~(d))~~ The department may suspend new admissions of a specific  
14 category or categories of patients as related to the violation by  
15 imposing a limited stop placement. This may only be done if the  
16 department finds that noncompliance results in immediate jeopardy.

17 (i) Prior to imposing a limited stop placement, the department  
18 shall provide a ~~((psychiatric hospital))~~ private establishment  
19 written notification upon identifying deficient practices or  
20 conditions that constitute an immediate jeopardy, and the  
21 ~~((psychiatric hospital))~~ private establishment shall have ~~((twenty-  
22 four))~~ 24 hours from notification to develop and implement a  
23 department-approved plan to correct the deficient practices or  
24 conditions that constitute an immediate jeopardy. If the deficient  
25 practices or conditions that constitute immediate jeopardy are not  
26 verified by the department as having been corrected within the same  
27 ~~((twenty-four))~~ 24-hour period, the department may issue the limited  
28 stop placement.

29 (ii) When the department imposes a limited stop placement, the  
30 ~~((psychiatric hospital))~~ private establishment may not ~~((admit any  
31 new patients))~~ accept any new admissions in the category or  
32 categories subject to the limited stop placement until the limited  
33 stop placement order is terminated.

34 (iii) The department shall conduct a follow-up inspection within  
35 five business days or within the time period requested by the  
36 ~~((psychiatric hospital))~~ private establishment if more than five  
37 business days is needed to verify the violation necessitating the  
38 limited stop placement has been corrected.

39 (iv) The limited stop placement shall be terminated when:

1 (A) The department verifies the violation necessitating the  
2 limited stop placement has been corrected or the department  
3 determines that the (~~(psychiatric hospital)~~) private establishment  
4 has taken intermediate action to address the immediate jeopardy; and

5 (B) The (~~(psychiatric hospital)~~) private establishment  
6 establishes the ability to maintain correction of the violation  
7 previously found deficient.

8 (~~(e)~~) (d) The department may suspend all new admissions to the  
9 (~~(psychiatric hospital)~~) private establishment by imposing a stop  
10 placement. This may only be done if the department finds that  
11 noncompliance results in immediate jeopardy and is not confined to a  
12 specific category or categories of patients or a specific area of the  
13 (~~(psychiatric hospital)~~) private establishment.

14 (i) Prior to imposing a stop placement, the department shall  
15 provide a (~~(psychiatric hospital)~~) private establishment written  
16 notification upon identifying deficient practices or conditions that  
17 constitute an immediate jeopardy, and the (~~(psychiatric hospital)~~)  
18 private establishment shall have (~~(twenty-four)~~) 24 hours from  
19 notification to develop and implement a department-approved plan to  
20 correct the deficient practices or conditions that constitute an  
21 immediate jeopardy. If the deficient practices or conditions that  
22 constitute immediate jeopardy are not verified by the department as  
23 having been corrected within the same (~~(twenty-four)~~) 24-hour period,  
24 the department may issue the stop placement.

25 (ii) When the department imposes a stop placement, the  
26 (~~(psychiatric hospital)~~) private establishment may not (~~(admit any~~  
27 ~~new patients)~~) accept any new admissions until the stop placement  
28 order is terminated.

29 (iii) The department shall conduct a follow-up inspection within  
30 five business days or within the time period requested by the  
31 (~~(psychiatric hospital)~~) private establishment if more than five  
32 business days is needed to verify the violation necessitating the  
33 stop placement has been corrected.

34 (iv) The stop placement order shall be terminated when:

35 (A) The department verifies the violation necessitating the stop  
36 placement has been corrected or the department determines that the  
37 (~~(psychiatric hospital)~~) private establishment has taken intermediate  
38 action to address the immediate jeopardy; and

1 (B) The (~~psychiatric hospital~~) private establishment  
2 establishes the ability to maintain correction of the violation  
3 previously found deficient.

4 (~~(f)~~) (e) The department may suspend a specific category or  
5 categories of services within the private establishment as related to  
6 the violation by imposing a limited stop service. This may only be  
7 done if the department finds that noncompliance results in immediate  
8 jeopardy.

9 (i) Prior to imposing a limited stop service, the department  
10 shall provide a private establishment written notification upon  
11 identifying deficient practices or conditions that constitute an  
12 immediate jeopardy. The private establishment shall have 24 hours  
13 from notification to develop and implement a department-approved plan  
14 to correct the deficient practices or conditions that constitute an  
15 immediate jeopardy. If the deficient practices or conditions that  
16 constitute immediate jeopardy are not verified by the department as  
17 having been corrected within the same 24-hour period, the department  
18 may issue the limited stop service.

19 (ii) When the department imposes a limited stop service, the  
20 private establishment may not provide the services in the category or  
21 categories subject to the limited stop service to any new or existing  
22 individuals, unless otherwise allowed by the department, until the  
23 limited stop service is terminated.

24 (iii) The department shall conduct a follow-up inspection within  
25 five business days or within the time period requested by the private  
26 establishment if more than five business days is needed to verify the  
27 violation necessitating the limited stop service has been corrected.

28 (iv) The limited stop service shall be terminated when:

29 (A) The department verifies the violation necessitating the  
30 limited stop service has been corrected or the department determines  
31 that the private establishment has taken intermediate action to  
32 address the immediate jeopardy; and

33 (B) The private establishment establishes the ability to maintain  
34 correction of the violation previously found deficient.

35 (f) The department may suspend, revoke, or refuse to renew a  
36 license.

37 (2) (a) Except as otherwise provided, RCW 43.70.115 governs notice  
38 of the imposition of conditions on a license, a limited stop  
39 placement, stop placement, limited stop service, or the suspension,  
40 revocation, or refusal to renew a license and provides the right to



1 an adjudicative proceeding. Adjudicative proceedings and hearings  
2 under this section are governed by the administrative procedure act,  
3 chapter 34.05 RCW. The application for an adjudicative proceeding  
4 must be in writing, state the basis for contesting the adverse  
5 action, including a copy of the department's notice, be served on and  
6 received by the department within (~~twenty-eight~~) 28 days of the  
7 licensee's receipt of the adverse notice, and be served in a manner  
8 that shows proof of receipt.

9 (b) When the department determines a licensee's noncompliance  
10 results in immediate jeopardy, the department may make the imposition  
11 of conditions on a licensee, a limited stop placement, stop  
12 placement, limited stop service, or the suspension of a license  
13 effective immediately upon receipt of the notice by the licensee,  
14 pending any adjudicative proceeding.

15 (i) When the department makes the suspension of a license or  
16 imposition of conditions on a license effective immediately, a  
17 licensee is entitled to a show cause hearing before a presiding  
18 officer within (~~fourteen~~) 14 days of making the request. The  
19 licensee must request the show cause hearing within (~~twenty-eight~~)  
20 28 days of receipt of the notice of immediate suspension or immediate  
21 imposition of conditions. At the show cause hearing the department  
22 has the burden of demonstrating that more probably than not there is  
23 an immediate jeopardy.

24 (ii) At the show cause hearing, the presiding officer may  
25 consider the notice and documents supporting the immediate suspension  
26 or immediate imposition of conditions and the licensee's response and  
27 must provide the parties with an opportunity to provide documentary  
28 evidence and written testimony, and to be represented by counsel.  
29 Prior to the show cause hearing, the department must provide the  
30 licensee with all documentation that supports the department's  
31 immediate suspension or immediate imposition of conditions.

32 (iii) If the presiding officer determines there is no immediate  
33 jeopardy, the presiding officer may overturn the immediate suspension  
34 or immediate imposition of conditions.

35 (iv) If the presiding officer determines there is immediate  
36 jeopardy, the immediate suspension or immediate imposition of  
37 conditions shall remain in effect pending a full hearing.

38 (v) If the secretary sustains the immediate suspension or  
39 immediate imposition of conditions, the licensee may request an  
40 expedited full hearing on the merits of the department's action. A

1 full hearing must be provided within (~~ninety~~) 90 days of the  
2 licensee's request.

3 (3) When the department determines an alleged violation, if true,  
4 would constitute an immediate jeopardy, and the licensee fails to  
5 cooperate with the department's investigation of such an alleged  
6 violation, the department may impose an immediate stop placement,  
7 immediate limited stop placement, immediate limited stop service,  
8 immediate imposition of conditions, or immediate suspension.

9 (a) When the department imposes an immediate stop placement,  
10 immediate limited stop placement, immediate limited stop service,  
11 immediate imposition of conditions, or immediate suspension for  
12 failure to cooperate, a licensee is entitled to a show cause hearing  
13 before a presiding officer within 14 days of making the request. The  
14 licensee must request the show cause hearing within 28 days of  
15 receipt of the notice of an immediate stop placement, immediate  
16 limited stop placement, immediate limited stop service, immediate  
17 imposition of conditions, or immediate suspension for failure to  
18 cooperate. At the show cause hearing the department has the burden of  
19 demonstrating that more probably than not the alleged violation, if  
20 true, would constitute an immediate jeopardy and the licensee failed  
21 to cooperate with the department's investigation.

22 (b) At the show cause hearing, the presiding officer may consider  
23 the notice and documents supporting the immediate stop placement,  
24 immediate limited stop placement, immediate limited stop service,  
25 immediate imposition of conditions, or immediate suspension for  
26 failure to cooperate, and the licensee's response and shall provide  
27 the parties with an opportunity to provide documentary evidence and  
28 written testimony, and to be represented by counsel. Prior to the  
29 show cause hearing, the department shall provide the licensee with  
30 all documentation that supports the department's immediate action for  
31 failure to cooperate.

32 (c) If the presiding officer determines the alleged violation, if  
33 true, does not constitute an immediate jeopardy or determines that  
34 the licensee cooperated with the department's investigation, the  
35 presiding officer may overturn the immediate action for failure to  
36 cooperate.

37 (d) If the presiding officer determines the allegation, if true,  
38 would constitute an immediate jeopardy and the licensee failed to  
39 cooperate with the department's investigation, the immediate action

1 for failure to cooperate shall remain in effect pending a full  
2 hearing.

3 (e) If the presiding officer sustains the immediate action for  
4 failure to cooperate, the licensee may request an expedited full  
5 hearing on the merits of the department's action. A full hearing must  
6 be provided within 90 days of the licensee's request.

7 **Sec. 19.** RCW 71.12.455 and 2020 c 115 s 6 are each reenacted and  
8 amended to read as follows:

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11 (1) "Department" means the department of health.

12 (2) "Elopement" means any situation in which an admitted patient  
13 of a ~~((psychiatric hospital))~~ private establishment who is  
14 cognitively, physically, mentally, emotionally, and/or chemically  
15 impaired wanders, walks, runs away, escapes, or otherwise leaves a  
16 ~~((psychiatric hospital))~~ private establishment or the grounds of a  
17 ~~((psychiatric hospital))~~ private establishment prior to the patient's  
18 scheduled discharge unsupervised, unnoticed, and without the staff's  
19 knowledge.

20 (3) "~~((Establishment))~~ Private establishment," "establishment,"  
21 and "institution" mean:

22 (a) Every private or county or municipal hospital, including  
23 public hospital districts, ~~((sanatoriums,))~~ homes, ~~((psychiatric))~~  
24 behavioral health hospitals, residential treatment facilities, or  
25 other places receiving or caring for any person with ~~((mental~~  
26 ~~illness, mentally incompetent person, or chemically dependent~~  
27 ~~person))~~ a behavioral health or substance use disorder; and

28 (b) Beginning January 1, 2019, facilities providing pediatric  
29 transitional care services.

30 (4) "Immediate jeopardy" means a situation in which the  
31 ~~((psychiatric hospital's))~~ private establishment's noncompliance with  
32 one or more statutory or regulatory requirements has placed the  
33 health and safety of patients in its care at risk for serious injury,  
34 serious harm, serious impairment, or death.

35 (5) "Pediatric transitional care services" means short-term,  
36 temporary, health and comfort services for drug exposed infants  
37 according to the requirements of this chapter and provided in an  
38 establishment licensed by the department ~~((of health)).~~

1 (6) "~~((Psychiatric)) Behavioral health~~ hospital" means an  
2 establishment caring for any person with mental illness or substance  
3 use disorder excluding acute care hospitals licensed under chapter  
4 70.41 RCW, state psychiatric hospitals established under chapter  
5 72.23 RCW, and residential treatment facilities as defined in this  
6 section.

7 (7) "Residential treatment facility" means an establishment in  
8 which ~~((twenty-four)) 24-hour~~ on-site care is provided for the  
9 evaluation, stabilization, or treatment of residents for substance  
10 use, mental health, co-occurring disorders, or for drug exposed  
11 infants.

12 (8) "Secretary" means the secretary of the department of health.

13 (9) "Technical assistance" means the provision of information on  
14 the state laws and rules applicable to the regulation of  
15 ~~((psychiatric hospitals)) private establishments~~, the process to  
16 apply for a license, and methods and resources to avoid or address  
17 compliance problems. Technical assistance does not include assistance  
18 provided under chapter 43.05 RCW.

19 (10) "Trained caregiver" means a noncredentialed, unlicensed  
20 person trained by the establishment providing pediatric transitional  
21 care services to provide hands-on care to drug exposed infants.  
22 Caregivers may not provide medical care to infants and may only work  
23 under the supervision of an appropriate health care professional.

24 **Sec. 20.** RCW 71.12.500 and 2000 c 93 s 25 are each amended to  
25 read as follows:

26 The department ~~((of health))~~ may at any time examine ~~((and~~  
27 ~~ascertain how far))~~ a licensed private establishment ~~((is conducted~~  
28 ~~in compliance with this chapter, the rules adopted under this~~  
29 ~~chapter, and the requirements of the license therefor. If the~~  
30 ~~interests of the patients of the establishment so demand, the~~  
31 ~~department may, for just and reasonable cause, suspend, modify, or~~  
32 ~~revoke any such license. RCW 43.70.115 governs notice of a license~~  
33 ~~denial, revocation, suspension, or modification and provides the~~  
34 ~~right to an adjudicative proceeding.))~~ to determine whether it has  
35 failed or refused to comply with the requirements of this chapter,  
36 the standards or rules adopted under this chapter, or other  
37 applicable state or federal statutes or rules regulating private  
38 establishments.

1        NEW SECTION.    **Sec. 21.**    A new section is added to chapter 71.12

2    RCW to read as follows:

3        (1) The department may give written notice to cease and desist to  
4    any person whom the department has reason to believe is engaged in  
5    the unlicensed operation of a private establishment.

6        (2)(a) Except as otherwise provided in this section, the  
7    requirement to cease and desist unlicensed operation is effective 20  
8    days after the person receives the notice.

9        (b) The department may make the date the action is effective  
10   sooner than 20 days after receipt when necessary to protect the  
11   public health, safety, or welfare. When the department does so, it  
12   shall state the effective date and the reasons supporting the  
13   effective date in the written notice to cease and desist.

14       (3) The person to whom the notice to cease and desist is issued  
15   may request an adjudicative proceeding to contest the notice. The  
16   adjudicative proceeding is governed by the administrative procedure  
17   act, chapter 34.05 RCW. The request for an adjudicative proceeding  
18   must be in writing, state the basis for contesting the notice,  
19   include a copy of the notice, and be served on and received by the  
20   department within 20 days from the date the person receives the  
21   notice to cease and desist.

22       (4)(a) If the department gives a person 20 days' notice to cease  
23   and desist and the person requests an adjudicative proceeding before  
24   its effective date, the department shall not implement the notice  
25   until the final order has been entered. The presiding or reviewing  
26   officer may permit the department to implement part or all of the  
27   notice while the proceedings are pending if the respondent causes an  
28   unreasonable delay in the proceeding, if the circumstances change so  
29   that implementation is in the public interest, or for other good  
30   cause.

31       (b) If the department gives a licensee less than 20 days' notice  
32   to cease and desist and the respondent timely files a request for an  
33   adjudicative proceeding, the department may implement the cease and  
34   desist on the effective date stated in the notice. The presiding or  
35   reviewing officer may order the department to stay implementation of  
36   part or all of the adverse action while the proceedings are pending  
37   if staying implementation is in the public interest or for other good  
38   cause.

1 (5) The department may assess a civil fine not exceeding \$5,000  
2 for each day a person operates a private establishment without a  
3 valid license.

4 (a) The department shall give written notice to the person  
5 against whom it assesses a civil fine.

6 (b) Except as otherwise provided in (c) and (d) of this  
7 subsection, the civil fine is due and payable 20 days after receipt.

8 (c) The person against whom the department assesses a civil fine  
9 has the right to request an adjudicative proceeding. The proceeding  
10 is governed by the administrative procedure act, chapter 34.05 RCW.  
11 The request must be in writing, state the basis for contesting the  
12 fine, include a copy of the notice, be served on and received by the  
13 department within 20 days of the person receiving the notice of civil  
14 fine, and be served in a manner which shows proof of receipt.

15 (d) If the person files a timely and sufficient request for  
16 adjudicative proceeding, the department shall not implement the fine  
17 until the final order has been served.

18 (6) Neither the issuance of a cease and desist order nor payment  
19 of a civil fine shall relieve the person so operating a private  
20 establishment without a license from criminal prosecution, but the  
21 remedy of a cease and desist order or civil fine shall be in addition  
22 to any criminal liability. A final notice to cease and desist is  
23 conclusive proof of unlicensed operation and may be enforced under  
24 RCW 7.21.060. This method of enforcement of the final notice to cease  
25 and desist or civil fine may be used in addition to, or as an  
26 alternative to, any provisions for enforcement of agency orders set  
27 out in chapter 34.05 RCW.

28 **Sec. 22.** RCW 70.38.025 and 2000 c 175 s 22 are each amended to  
29 read as follows:

30 When used in this chapter, the terms defined in this section  
31 shall have the meanings indicated.

32 (1) "Board of health" means the state board of health created  
33 pursuant to chapter 43.20 RCW.

34 (2) "Capital expenditure" is an expenditure, including a force  
35 account expenditure (i.e., an expenditure for a construction project  
36 undertaken by a nursing home facility as its own contractor) which,  
37 under generally accepted accounting principles, is not properly  
38 chargeable as an expense of operation or maintenance. Where a person  
39 makes an acquisition under lease or comparable arrangement, or

1 through donation, which would have required review if the acquisition  
2 had been made by purchase, such expenditure shall be deemed a capital  
3 expenditure. Capital expenditures include donations of equipment or  
4 facilities to a nursing home facility which if acquired directly by  
5 such facility would be subject to certificate of need review under  
6 the provisions of this chapter and transfer of equipment or  
7 facilities for less than fair market value if a transfer of the  
8 equipment or facilities at fair market value would be subject to such  
9 review. The cost of any studies, surveys, designs, plans, working  
10 drawings, specifications, and other activities essential to the  
11 acquisition, improvement, expansion, or replacement of any plant or  
12 equipment with respect to which such expenditure is made shall be  
13 included in determining the amount of the expenditure.

14 (3) "Continuing care retirement community" means an entity which  
15 provides shelter and services under continuing care contracts with  
16 its members and which sponsors or includes a health care facility or  
17 a health service. A "continuing care contract" means a contract to  
18 provide a person, for the duration of that person's life or for a  
19 term in excess of one year, shelter along with nursing, medical,  
20 health-related, or personal care services, which is conditioned upon  
21 the transfer of property, the payment of an entrance fee to the  
22 provider of such services, or the payment of periodic charges for the  
23 care and services involved. A continuing care contract is not  
24 excluded from this definition because the contract is mutually  
25 terminable or because shelter and services are not provided at the  
26 same location.

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

28 (5) "Expenditure minimum" means, for the purposes of the  
29 certificate of need program, (~~one million dollars~~) \$1,000,000  
30 adjusted by the department by rule to reflect changes in the United  
31 States department of commerce composite construction cost index; or a  
32 lesser amount required by federal law and established by the  
33 department by rule.

34 (6) "Health care facility" means hospices, hospice care centers,  
35 hospitals, (~~psychiatric~~) behavioral health hospitals, nursing  
36 homes, kidney disease treatment centers, ambulatory surgical  
37 facilities, and home health agencies, and includes such facilities  
38 when owned and operated by a political subdivision or instrumentality  
39 of the state and such other facilities as required by federal law and  
40 implementing regulations, but does not include any health facility or

1 institution conducted by and for those who rely exclusively upon  
2 treatment by prayer or spiritual means in accordance with the creed  
3 or tenets of any well-recognized church or religious denomination, or  
4 any health facility or institution operated for the exclusive care of  
5 members of a convent as defined in RCW 84.36.800 or rectory,  
6 monastery, or other institution operated for the care of members of  
7 the clergy. In addition, the term does not include any nonprofit  
8 hospital: (a) Which is operated exclusively to provide health care  
9 services for children; (b) which does not charge fees for such  
10 services; and (c) if not contrary to federal law as necessary to the  
11 receipt of federal funds by the state.

12 (7) "Health maintenance organization" means a public or private  
13 organization, organized under the laws of the state, which:

14 (a) Is a qualified health maintenance organization under Title  
15 XIII, section 1310(d) of the Public Health (~~(Services—[Service])~~)  
16 Service Act; or

17 (b) (i) Provides or otherwise makes available to enrolled  
18 participants health care services, including at least the following  
19 basic health care services: Usual physician services,  
20 hospitalization, laboratory, X-ray, emergency, and preventive  
21 services, and out-of-area coverage; (ii) is compensated (except for  
22 copayments) for the provision of the basic health care services  
23 listed in (b) (i) to enrolled participants by a payment which is paid  
24 on a periodic basis without regard to the date the health care  
25 services are provided and which is fixed without regard to the  
26 frequency, extent, or kind of health service actually provided; and  
27 (iii) provides physicians' services primarily (A) directly through  
28 physicians who are either employees or partners of such organization,  
29 or (B) through arrangements with individual physicians or one or more  
30 groups of physicians (organized on a group practice or individual  
31 practice basis).

32 (8) "Health services" means clinically related (i.e., preventive,  
33 diagnostic, curative, rehabilitative, or palliative) services and  
34 includes alcoholism, drug abuse, and mental health services and as  
35 defined in federal law.

36 (9) "Health service area" means a geographic region appropriate  
37 for effective health planning which includes a broad range of health  
38 services.

39 (10) "Person" means an individual, a trust or estate, a  
40 partnership, a corporation (including associations, joint stock



1 companies, and insurance companies), the state, or a political  
2 subdivision or instrumentality of the state, including a municipal  
3 corporation or a hospital district.

4 (11) "Provider" generally means a health care professional or an  
5 organization, institution, or other entity providing health care but  
6 the precise definition for this term shall be established by rule of  
7 the department, consistent with federal law.

8 (12) "Public health" means the level of well-being of the general  
9 population; those actions in a community necessary to preserve,  
10 protect, and promote the health of the people for which government is  
11 responsible; and the governmental system developed to guarantee the  
12 preservation of the health of the people.

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

15 (14) "Tertiary health service" means a specialized service that  
16 meets complicated medical needs of people and requires sufficient  
17 patient volume to optimize provider effectiveness, quality of  
18 service, and improved outcomes of care.

19 (15) "Hospital" means any health care institution which is  
20 required to qualify for a license under RCW 70.41.020(~~(+2)~~) (8); or  
21 as a (~~psychiatric~~) behavioral health hospital under chapter 71.12  
22 RCW.

23 **Sec. 23.** RCW 70.38.111 and 2021 c 277 s 1 are each amended to  
24 read as follows:

25 (1) The department shall not require a certificate of need for  
26 the offering of an inpatient tertiary health service by:

27 (a) A health maintenance organization or a combination of health  
28 maintenance organizations if (i) the organization or combination of  
29 organizations has, in the service area of the organization or the  
30 service areas of the organizations in the combination, an enrollment  
31 of at least (~~fifty thousand~~) 50,000 individuals, (ii) the facility  
32 in which the service will be provided is or will be geographically  
33 located so that the service will be reasonably accessible to such  
34 enrolled individuals, and (iii) at least (~~seventy-five~~) 75 percent  
35 of the patients who can reasonably be expected to receive the  
36 tertiary health service will be individuals enrolled with such  
37 organization or organizations in the combination;

38 (b) A health care facility if (i) the facility primarily provides  
39 or will provide inpatient health services, (ii) the facility is or

1 will be controlled, directly or indirectly, by a health maintenance  
2 organization or a combination of health maintenance organizations  
3 which has, in the service area of the organization or service areas  
4 of the organizations in the combination, an enrollment of at least  
5 (~~fifty thousand~~) 50,000 individuals, (iii) the facility is or will  
6 be geographically located so that the service will be reasonably  
7 accessible to such enrolled individuals, and (iv) at least (~~seventy-~~  
8 ~~five~~) 75 percent of the patients who can reasonably be expected to  
9 receive the tertiary health service will be individuals enrolled with  
10 such organization or organizations in the combination; or

11 (c) A health care facility (or portion thereof) if (i) the  
12 facility is or will be leased by a health maintenance organization or  
13 combination of health maintenance organizations which has, in the  
14 service area of the organization or the service areas of the  
15 organizations in the combination, an enrollment of at least (~~fifty~~  
16 ~~thousand~~) 50,000 individuals and, on the date the application is  
17 submitted under subsection (2) of this section, at least (~~fifteen~~)  
18 15 years remain in the term of the lease, (ii) the facility is or  
19 will be geographically located so that the service will be reasonably  
20 accessible to such enrolled individuals, and (iii) at least  
21 (~~seventy-five~~) 75 percent of the patients who can reasonably be  
22 expected to receive the tertiary health service will be individuals  
23 enrolled with such organization;

24 if, with respect to such offering or obligation by a nursing home,  
25 the department has, upon application under subsection (2) of this  
26 section, granted an exemption from such requirement to the  
27 organization, combination of organizations, or facility.

28 (2) A health maintenance organization, combination of health  
29 maintenance organizations, or health care facility shall not be  
30 exempt under subsection (1) of this section from obtaining a  
31 certificate of need before offering a tertiary health service unless:

32 (a) It has submitted at least (~~thirty~~) 30 days prior to the  
33 offering of services reviewable under RCW 70.38.105(4) (d) an  
34 application for such exemption; and

35 (b) The application contains such information respecting the  
36 organization, combination, or facility and the proposed offering or  
37 obligation by a nursing home as the department may require to  
38 determine if the organization or combination meets the requirements  
39 of subsection (1) of this section or the facility meets or will meet  
40 such requirements; and

1 (c) The department approves such application. The department  
2 shall approve or disapprove an application for exemption within  
3 (~~thirty~~) 30 days of receipt of a completed application. In the case  
4 of a proposed health care facility (or portion thereof) which has not  
5 begun to provide tertiary health services on the date an application  
6 is submitted under this subsection with respect to such facility (or  
7 portion), the facility (or portion) shall meet the applicable  
8 requirements of subsection (1) of this section when the facility  
9 first provides such services. The department shall approve an  
10 application submitted under this subsection if it determines that the  
11 applicable requirements of subsection (1) of this section are met.

12 (3) A health care facility (or any part thereof) with respect to  
13 which an exemption was granted under subsection (1) of this section  
14 may not be sold or leased and a controlling interest in such facility  
15 or in a lease of such facility may not be acquired and a health care  
16 facility described in (1)(c) which was granted an exemption under  
17 subsection (1) of this section may not be used by any person other  
18 than the lessee described in (1)(c) unless:

19 (a) The department issues a certificate of need approving the  
20 sale, lease, acquisition, or use; or

21 (b) The department determines, upon application, that (i) the  
22 entity to which the facility is proposed to be sold or leased, which  
23 intends to acquire the controlling interest, or which intends to use  
24 the facility is a health maintenance organization or a combination of  
25 health maintenance organizations which meets the requirements of  
26 (1)(a)(i), and (ii) with respect to such facility, meets the  
27 requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i)  
28 and (ii).

29 (4) In the case of a health maintenance organization, an  
30 ambulatory care facility, or a health care facility, which ambulatory  
31 or health care facility is controlled, directly or indirectly, by a  
32 health maintenance organization or a combination of health  
33 maintenance organizations, the department may under the program apply  
34 its certificate of need requirements to the offering of inpatient  
35 tertiary health services to the extent that such offering is not  
36 exempt under the provisions of this section or RCW 70.38.105(7).

37 (5)(a) The department shall not require a certificate of need for  
38 the construction, development, or other establishment of a nursing  
39 home, or the addition of beds to an existing nursing home, that is  
40 owned and operated by a continuing care retirement community that:

- 1 (i) Offers services only to contractual members;
- 2 (ii) Provides its members a contractually guaranteed range of  
3 services from independent living through skilled nursing, including  
4 some assistance with daily living activities;
- 5 (iii) Contractually assumes responsibility for the cost of  
6 services exceeding the member's financial responsibility under the  
7 contract, so that no third party, with the exception of insurance  
8 purchased by the retirement community or its members, but including  
9 the medicaid program, is liable for costs of care even if the member  
10 depletes his or her personal resources;
- 11 (iv) Has offered continuing care contracts and operated a nursing  
12 home continuously since January 1, 1988, or has obtained a  
13 certificate of need to establish a nursing home;
- 14 (v) Maintains a binding agreement with the state assuring that  
15 financial liability for services to members, including nursing home  
16 services, will not fall upon the state;
- 17 (vi) Does not operate, and has not undertaken a project that  
18 would result in a number of nursing home beds in excess of one for  
19 every four living units operated by the continuing care retirement  
20 community, exclusive of nursing home beds; and
- 21 (vii) Has obtained a professional review of pricing and long-term  
22 solvency within the prior five years which was fully disclosed to  
23 members.
- 24 (b) A continuing care retirement community shall not be exempt  
25 under this subsection from obtaining a certificate of need unless:
- 26 (i) It has submitted an application for exemption at least  
27 (~~thirty~~) 30 days prior to commencing construction of, is submitting  
28 an application for the licensure of, or is commencing operation of a  
29 nursing home, whichever comes first; and
- 30 (ii) The application documents to the department that the  
31 continuing care retirement community qualifies for exemption.
- 32 (c) The sale, lease, acquisition, or use of part or all of a  
33 continuing care retirement community nursing home that qualifies for  
34 exemption under this subsection shall require prior certificate of  
35 need approval to qualify for licensure as a nursing home unless the  
36 department determines such sale, lease, acquisition, or use is by a  
37 continuing care retirement community that meets the conditions of (a)  
38 of this subsection.
- 39 (6) A rural hospital, as defined by the department, reducing the  
40 number of licensed beds to become a rural primary care hospital under

1 the provisions of Part A Title XVIII of the Social Security Act  
2 Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the  
3 reduction of beds licensed under chapter 70.41 RCW, increase the  
4 number of licensed beds to no more than the previously licensed  
5 number without being subject to the provisions of this chapter.

6 (7) A rural health care facility licensed under RCW 70.175.100  
7 formerly licensed as a hospital under chapter 70.41 RCW may, within  
8 three years of the effective date of the rural health care facility  
9 license, apply to the department for a hospital license and not be  
10 subject to the requirements of RCW 70.38.105(4)(a) as the  
11 construction, development, or other establishment of a new hospital,  
12 provided there is no increase in the number of beds previously  
13 licensed under chapter 70.41 RCW and there is no redistribution in  
14 the number of beds used for acute care or long-term care, the rural  
15 health care facility has been in continuous operation, and the rural  
16 health care facility has not been purchased or leased.

17 (8) A rural hospital determined to no longer meet critical access  
18 hospital status for state law purposes as a result of participation  
19 in the Washington rural health access preservation pilot identified  
20 by the state office of rural health and formerly licensed as a  
21 hospital under chapter 70.41 RCW may apply to the department to renew  
22 its hospital license and not be subject to the requirements of RCW  
23 70.38.105(4)(a) as the construction, development, or other  
24 establishment of a new hospital, provided there is no increase in the  
25 number of beds previously licensed under chapter 70.41 RCW. If all or  
26 part of a formerly licensed rural hospital is sold, purchased, or  
27 leased during the period the rural hospital does not meet critical  
28 access hospital status as a result of participation in the Washington  
29 rural health access preservation pilot and the new owner or lessor  
30 applies to renew the rural hospital's license, then the sale,  
31 purchase, or lease of part or all of the rural hospital is subject to  
32 the provisions of this chapter.

33 (9)(a) A nursing home that voluntarily reduces the number of its  
34 licensed beds to provide assisted living, licensed assisted living  
35 facility care, adult day care, adult day health, respite care,  
36 hospice, outpatient therapy services, congregate meals, home health,  
37 or senior wellness clinic, or to reduce to one or two the number of  
38 beds per room or to otherwise enhance the quality of life for  
39 residents in the nursing home, may convert the original facility or  
40 portion of the facility back, and thereby increase the number of

1 nursing home beds to no more than the previously licensed number of  
2 nursing home beds without obtaining a certificate of need under this  
3 chapter, provided the facility has been in continuous operation and  
4 has not been purchased or leased. Any conversion to the original  
5 licensed bed capacity, or to any portion thereof, shall comply with  
6 the same life and safety code requirements as existed at the time the  
7 nursing home voluntarily reduced its licensed beds; unless waivers  
8 from such requirements were issued, in which case the converted beds  
9 shall reflect the conditions or standards that then existed pursuant  
10 to the approved waivers.

11 (b) To convert beds back to nursing home beds under this  
12 subsection, the nursing home must:

13 (i) Give notice of its intent to preserve conversion options to  
14 the department of health no later than (~~(thirty)~~) 30 days after the  
15 effective date of the license reduction; and

16 (ii) Give notice to the department of health and to the  
17 department of social and health services of the intent to convert  
18 beds back. If construction is required for the conversion of beds  
19 back, the notice of intent to convert beds back must be given, at a  
20 minimum, one year prior to the effective date of license modification  
21 reflecting the restored beds; otherwise, the notice must be given a  
22 minimum of (~~(ninety)~~) 90 days prior to the effective date of license  
23 modification reflecting the restored beds. Prior to any license  
24 modification to convert beds back to nursing home beds under this  
25 section, the licensee must demonstrate that the nursing home meets  
26 the certificate of need exemption requirements of this section.

27 The term "construction," as used in (b)(ii) of this subsection,  
28 is limited to those projects that are expected to equal or exceed the  
29 expenditure minimum amount, as determined under this chapter.

30 (c) Conversion of beds back under this subsection must be  
31 completed no later than four years after the effective date of the  
32 license reduction. However, for good cause shown, the four-year  
33 period for conversion may be extended by the department of health for  
34 one additional four-year period.

35 (d) Nursing home beds that have been voluntarily reduced under  
36 this section shall be counted as available nursing home beds for the  
37 purpose of evaluating need under RCW 70.38.115(2) (a) and (k) so long  
38 as the facility retains the ability to convert them back to nursing  
39 home use under the terms of this section.

1 (e) When a building owner has secured an interest in the nursing  
2 home beds, which are intended to be voluntarily reduced by the  
3 licensee under (a) of this subsection, the applicant shall provide  
4 the department with a written statement indicating the building  
5 owner's approval of the bed reduction.

6 (10)(a) The department shall not require a certificate of need  
7 for a hospice agency if:

8 (i) The hospice agency is designed to serve the unique religious  
9 or cultural needs of a religious group or an ethnic minority and  
10 commits to furnishing hospice services in a manner specifically aimed  
11 at meeting the unique religious or cultural needs of the religious  
12 group or ethnic minority;

13 (ii) The hospice agency is operated by an organization that:

14 (A) Operates a facility, or group of facilities, that offers a  
15 comprehensive continuum of long-term care services, including, at a  
16 minimum, a licensed, medicare-certified nursing home, assisted  
17 living, independent living, day health, and various community-based  
18 support services, designed to meet the unique social, cultural, and  
19 religious needs of a specific cultural and ethnic minority group;

20 (B) Has operated the facility or group of facilities for at least  
21 ~~((ten))~~ 10 continuous years prior to the establishment of the hospice  
22 agency;

23 (iii) The hospice agency commits to coordinating with existing  
24 hospice programs in its community when appropriate;

25 (iv) The hospice agency has a census of no more than ~~((forty))~~ 40  
26 patients;

27 (v) The hospice agency commits to obtaining and maintaining  
28 medicare certification;

29 (vi) The hospice agency only serves patients located in the same  
30 county as the majority of the long-term care services offered by the  
31 organization that operates the agency; and

32 (vii) The hospice agency is not sold or transferred to another  
33 agency.

34 (b) The department shall include the patient census for an agency  
35 exempted under this subsection (10) in its calculations for future  
36 certificate of need applications.

37 (11) To alleviate the need to board psychiatric patients in  
38 emergency departments and increase capacity of hospitals to serve  
39 individuals on ~~((ninety))~~ 90-day or ~~((one-hundred-eighty))~~ 180-day

1 commitment orders, for the period of time from May 5, 2017, through  
2 June 30, 2023:

3 (a) The department shall suspend the certificate of need  
4 requirement for a hospital licensed under chapter 70.41 RCW that  
5 changes the use of licensed beds to increase the number of beds to  
6 provide psychiatric services, including involuntary treatment  
7 services. A certificate of need exemption under this subsection  
8 (11) (a) shall be valid for two years.

9 (b) The department may not require a certificate of need for:

10 (i) The addition of beds as described in RCW 70.38.260 (2) and  
11 (3); or

12 (ii) The construction, development, or establishment of a  
13 (~~(psychiatric)~~) behavioral health hospital licensed as an  
14 establishment under chapter 71.12 RCW that will have no more than  
15 (~~(sixteen)~~) 16 beds and provide treatment to adults on (~~(ninety)~~) 90  
16 or (~~(one hundred eighty)~~) 180-day involuntary commitment orders, as  
17 described in RCW 70.38.260(4).

18 (12) (a) An ambulatory surgical facility is exempt from all  
19 certificate of need requirements if the facility:

20 (i) Is an individual or group practice and, if the facility is a  
21 group practice, the privilege of using the facility is not extended  
22 to physicians outside the group practice;

23 (ii) Operated or received approval to operate, prior to January  
24 19, 2018; and

25 (iii) Was exempt from certificate of need requirements prior to  
26 January 19, 2018, because the facility either:

27 (A) Was determined to be exempt from certificate of need  
28 requirements pursuant to a determination of reviewability issued by  
29 the department; or

30 (B) Was a single-specialty endoscopy center in existence prior to  
31 January 14, 2003, when the department determined that endoscopy  
32 procedures were surgeries for purposes of certificate of need.

33 (b) The exemption under this subsection:

34 (i) Applies regardless of future changes of ownership, corporate  
35 structure, or affiliations of the individual or group practice as  
36 long as the use of the facility remains limited to physicians in the  
37 group practice; and

38 (ii) Does not apply to changes in services, specialties, or  
39 number of operating rooms.



1 (13) A rural health clinic providing health services in a home  
2 health shortage area as declared by the department pursuant to 42  
3 C.F.R. Sec. 405.2416 is not subject to certificate of need review  
4 under this chapter.

5 **Sec. 24.** RCW 70.38.260 and 2021 c 277 s 2 are each amended to  
6 read as follows:

7 (1) For a grant awarded during fiscal years 2018 and 2019 by the  
8 department of commerce under this section, hospitals licensed under  
9 chapter 70.41 RCW and (~~psychiatric~~) behavioral health hospitals  
10 licensed as establishments under chapter 71.12 RCW are not subject to  
11 certificate of need requirements for the addition of the number of  
12 new psychiatric beds indicated in the grant. The department of  
13 commerce may not make a prior approval of a certificate of need  
14 application a condition for a grant application under this  
15 section. The period during which an approved hospital or  
16 (~~psychiatric~~) behavioral health hospital project qualifies for a  
17 certificate of need exemption under this section is two years from  
18 the date of the grant award.

19 (2)(a) Until June 30, 2023, a hospital licensed under chapter  
20 70.41 RCW is exempt from certificate of need requirements for the  
21 addition of new psychiatric beds.

22 (b) A hospital that adds new psychiatric beds under this  
23 subsection (2) must:

24 (i) Notify the department of the addition of new psychiatric  
25 beds. The department shall provide the hospital with a notice of  
26 exemption within (~~thirty~~) 30 days; and

27 (ii) Commence the project within two years of the date of receipt  
28 of the notice of exemption.

29 (c) Beds granted an exemption under RCW 70.38.111(11)(b) must  
30 remain psychiatric beds unless a certificate of need is granted to  
31 change their use or the hospital voluntarily reduces its licensed  
32 capacity.

33 (3)(a) Until June 30, 2023, a (~~psychiatric~~) behavioral health  
34 hospital licensed as an establishment under chapter 71.12 RCW is  
35 exempt from certificate of need requirements for the one-time  
36 addition of up to 30 new psychiatric beds devoted solely for 90-day  
37 and 180-day civil commitment services and for the one-time addition  
38 of up to 30 new voluntary psychiatric beds or involuntary psychiatric  
39 beds for patients on a 120 hour detention or 14-day civil commitment

1 order, if the hospital makes a commitment to maintain a payer mix of  
2 at least (~~fifty~~) 50 percent medicare and medicaid based on a  
3 calculation using patient days for a period of five consecutive years  
4 after the beds are made available for use by patients, if it  
5 demonstrates to the satisfaction of the department:

6 (i) That its most recent two years of publicly available fiscal  
7 year-end report data as required under RCW 70.170.100 and 43.70.050  
8 reported to the department by the (~~psychiatric~~) behavioral health  
9 hospital, show a payer mix of a minimum of (~~fifty~~) 50 percent  
10 medicare and medicaid based on a calculation using patient days; and

11 (ii) A commitment to maintaining the payer mix in (a) of this  
12 subsection for a period of five consecutive years after the beds are  
13 made available for use by patients.

14 (b) A (~~psychiatric~~) behavioral health hospital that adds new  
15 psychiatric beds under this subsection (3) must:

16 (i) Notify the department of the addition of new psychiatric  
17 beds. The department shall provide the (~~psychiatric~~) behavioral  
18 health hospital with a notice of exemption within (~~thirty~~) 30 days;  
19 and

20 (ii) Commence the project within two years of the date of receipt  
21 of the notice of exemption.

22 (c) Beds granted an exemption under RCW 70.38.111(11)(b) must  
23 remain the types of psychiatric beds indicated to the department in  
24 the original exemption application unless a certificate of need is  
25 granted to change their use or the (~~psychiatric~~) behavioral health  
26 hospital voluntarily reduces its licensed capacity.

27 (4)(a) Until June 30, 2023, an entity seeking to construct,  
28 develop, or establish a (~~psychiatric~~) behavioral health hospital  
29 licensed as an establishment under chapter 71.12 RCW is exempt from  
30 certificate of need requirements if the proposed (~~psychiatric~~)  
31 behavioral health hospital will have no more than (~~sixteen~~) 16 beds  
32 and dedicate a portion of the beds to providing treatment to adults  
33 on (~~ninety~~) 90 or (~~one hundred eighty~~) 180-day involuntary  
34 commitment orders. The (~~psychiatric~~) behavioral health hospital may  
35 also provide treatment to adults on a 120 hour detention or 14-day  
36 involuntary commitment order.

37 (b) An entity that seeks to construct, develop, or establish a  
38 (~~psychiatric~~) behavioral health hospital under this subsection (4)  
39 must:

1 (i) Notify the department of the addition of construction,  
2 development, or establishment. The department shall provide the  
3 entity with a notice of exemption within (~~(thirty)~~) 30 days; and

4 (ii) Commence the project within two years of the date of receipt  
5 of the notice of exemption.

6 (c) Entities granted an exemption under RCW 70.38.111(11)(b)(ii)  
7 may not exceed (~~(sixteen)~~) 16 beds unless a certificate of need is  
8 granted to increase the (~~(psychiatric)~~) behavioral health hospital's  
9 capacity.

10 (5) This section expires June 30, 2025.

11 **Sec. 25.** RCW 71.24.025 and 2023 c 454 s 1 and 2023 c 433 s 1 are  
12 each reenacted and amended to read as follows:

13 Unless the context clearly requires otherwise, the definitions in  
14 this section apply throughout this chapter.

15 (1) "23-hour crisis relief center" means a community-based  
16 facility or portion of a facility serving adults, which is licensed  
17 or certified by the department of health and open 24 hours a day,  
18 seven days a week, offering access to mental health and substance use  
19 care for no more than 23 hours and 59 minutes at a time per patient,  
20 and which accepts all behavioral health crisis walk-ins drop-offs  
21 from first responders, and individuals referred through the 988  
22 system regardless of behavioral health acuity, and meets the  
23 requirements under RCW 71.24.916.

24 (2) "988 crisis hotline" means the universal telephone number  
25 within the United States designated for the purpose of the national  
26 suicide prevention and mental health crisis hotline system operating  
27 through the national suicide prevention lifeline.

28 (3) "Acutely mentally ill" means a condition which is limited to  
29 a short-term severe crisis episode of:

30 (a) A mental disorder as defined in RCW 71.05.020 or, in the case  
31 of a child, as defined in RCW 71.34.020;

32 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
33 case of a child, a gravely disabled minor as defined in RCW  
34 71.34.020; or

35 (c) Presenting a likelihood of serious harm as defined in RCW  
36 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

37 (4) "Alcoholism" means a disease, characterized by a dependency  
38 on alcoholic beverages, loss of control over the amount and  
39 circumstances of use, symptoms of tolerance, physiological or

1 psychological withdrawal, or both, if use is reduced or discontinued,  
2 and impairment of health or disruption of social or economic  
3 functioning.

4 (5) "Approved substance use disorder treatment program" means a  
5 program for persons with a substance use disorder provided by a  
6 treatment program licensed or certified by the department as meeting  
7 standards adopted under this chapter.

8 (6) "Authority" means the Washington state health care authority.

9 (7) "Available resources" means funds appropriated for the  
10 purpose of providing community behavioral health programs, federal  
11 funds, except those provided according to Title XIX of the Social  
12 Security Act, and state funds appropriated under this chapter or  
13 chapter 71.05 RCW by the legislature during any biennium for the  
14 purpose of providing residential services, resource management  
15 services, community support services, and other behavioral health  
16 services. This does not include funds appropriated for the purpose of  
17 operating and administering the state psychiatric hospitals.

18 (8) "Behavioral health administrative services organization"  
19 means an entity contracted with the authority to administer  
20 behavioral health services and programs under RCW 71.24.381,  
21 including crisis services and administration of chapter 71.05 RCW,  
22 the involuntary treatment act, for all individuals in a defined  
23 regional service area.

24 (9) "Behavioral health aide" means a counselor, health educator,  
25 and advocate who helps address individual and community-based  
26 behavioral health needs, including those related to alcohol, drug,  
27 and tobacco abuse as well as mental health problems such as grief,  
28 depression, suicide, and related issues and is certified by a  
29 community health aide program of the Indian health service or one or  
30 more tribes or tribal organizations consistent with the provisions of  
31 25 U.S.C. Sec. 16161 and RCW 43.71B.010 (7) and (8).

32 (10) "Behavioral health provider" means a person licensed under  
33 chapter 18.57, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as  
34 it applies to registered nurses and advanced registered nurse  
35 practitioners.

36 (11) "Behavioral health services" means mental health services,  
37 substance use disorder treatment services, and co-occurring disorder  
38 treatment services as described in this chapter and chapter 71.36 RCW  
39 that, depending on the type of service, are provided by licensed or

1 certified behavioral health agencies, behavioral health providers, or  
2 integrated into other health care providers.

3 (12) "Child" means a person under the age of (~~eighteen~~) 18  
4 years.

5 (13) "Chronically mentally ill adult" or "adult who is  
6 chronically mentally ill" means an adult who has a mental disorder  
7 and meets at least one of the following criteria:

8 (a) Has undergone two or more episodes of hospital care for a  
9 mental disorder within the preceding two years; or

10 (b) Has experienced a continuous (~~psychiatric~~) behavioral  
11 health hospitalization or residential treatment exceeding six months'  
12 duration within the preceding year; or

13 (c) Has been unable to engage in any substantial gainful activity  
14 by reason of any mental disorder which has lasted for a continuous  
15 period of not less than (~~twelve~~) 12 months. "Substantial gainful  
16 activity" shall be defined by the authority by rule consistent with  
17 Public Law 92-603, as amended.

18 (14) "Clubhouse" means a community-based program that provides  
19 rehabilitation services and is licensed or certified by the  
20 department.

21 (15) "Community behavioral health program" means all  
22 expenditures, services, activities, or programs, including reasonable  
23 administration and overhead, designed and conducted to prevent or  
24 treat substance use disorder, mental illness, or both in the  
25 community behavioral health system.

26 (16) "Community behavioral health service delivery system" means  
27 public, private, or tribal agencies that provide services  
28 specifically to persons with mental disorders, substance use  
29 disorders, or both, as defined under RCW 71.05.020 and receive  
30 funding from public sources.

31 (17) "Community support services" means services authorized,  
32 planned, and coordinated through resource management services  
33 including, at a minimum, assessment, diagnosis, emergency crisis  
34 intervention available (~~twenty-four~~) 24 hours, seven days a week,  
35 prescreening determinations for persons who are mentally ill being  
36 considered for placement in nursing homes as required by federal law,  
37 screening for patients being considered for admission to residential  
38 services, diagnosis and treatment for children who are acutely  
39 mentally ill or severely emotionally or behaviorally disturbed  
40 discovered under screening through the federal Title XIX early and

1 periodic screening, diagnosis, and treatment program, investigation,  
2 legal, and other nonresidential services under chapter 71.05 RCW,  
3 case management services, psychiatric treatment including medication  
4 supervision, counseling, psychotherapy, assuring transfer of relevant  
5 patient information between service providers, recovery services, and  
6 other services determined by behavioral health administrative  
7 services organizations.

8 (18) "Community-based crisis team" means a team that is part of  
9 an emergency medical services agency, a fire service agency, a public  
10 health agency, a medical facility, a nonprofit crisis response  
11 provider, or a city or county government entity, other than a law  
12 enforcement agency, that provides the on-site community-based  
13 interventions of a mobile rapid response crisis team for individuals  
14 who are experiencing a behavioral health crisis.

15 (19) "Consensus-based" means a program or practice that has  
16 general support among treatment providers and experts, based on  
17 experience or professional literature, and may have anecdotal or case  
18 study support, or that is agreed but not possible to perform studies  
19 with random assignment and controlled groups.

20 (20) "County authority" means the board of county commissioners,  
21 county council, or county executive having authority to establish a  
22 behavioral health administrative services organization, or two or  
23 more of the county authorities specified in this subsection which  
24 have entered into an agreement to establish a behavioral health  
25 administrative services organization.

26 (21) "Crisis stabilization services" means services such as 23-  
27 hour crisis relief centers, crisis stabilization units, short-term  
28 respite facilities, peer-run respite services, and same-day walk-in  
29 behavioral health services, including within the overall crisis  
30 system components that operate like hospital emergency departments  
31 that accept all walk-ins, and ambulance, fire, and police drop-offs,  
32 or determine the need for involuntary hospitalization of an  
33 individual.

34 (22) "Crisis stabilization unit" has the same meaning as under  
35 RCW 71.05.020.

36 (23) "Department" means the department of health.

37 (24) "Designated 988 contact hub" means a state-designated  
38 contact center that streamlines clinical interventions and access to  
39 resources for people experiencing a behavioral health crisis and  
40 participates in the national suicide prevention lifeline network to

1 respond to statewide or regional 988 contacts that meets the  
2 requirements of RCW 71.24.890.

3 (25) "Designated crisis responder" has the same meaning as in RCW  
4 71.05.020.

5 (26) "Director" means the director of the authority.

6 (27) "Drug addiction" means a disease characterized by a  
7 dependency on psychoactive chemicals, loss of control over the amount  
8 and circumstances of use, symptoms of tolerance, physiological or  
9 psychological withdrawal, or both, if use is reduced or discontinued,  
10 and impairment of health or disruption of social or economic  
11 functioning.

12 (28) "Early adopter" means a regional service area for which all  
13 of the county authorities have requested that the authority purchase  
14 medical and behavioral health services through a managed care health  
15 system as defined under RCW 71.24.380(7).

16 (29) "Emerging best practice" or "promising practice" means a  
17 program or practice that, based on statistical analyses or a well  
18 established theory of change, shows potential for meeting the  
19 evidence-based or research-based criteria, which may include the use  
20 of a program that is evidence-based for outcomes other than those  
21 listed in subsection (30) of this section.

22 (30) "Evidence-based" means a program or practice that has been  
23 tested in heterogeneous or intended populations with multiple  
24 randomized, or statistically controlled evaluations, or both; or one  
25 large multiple site randomized, or statistically controlled  
26 evaluation, or both, where the weight of the evidence from a systemic  
27 review demonstrates sustained improvements in at least one outcome.  
28 "Evidence-based" also means a program or practice that can be  
29 implemented with a set of procedures to allow successful replication  
30 in Washington and, when possible, is determined to be cost-  
31 beneficial.

32 (31) "First responders" includes ambulance, fire, mobile rapid  
33 response crisis team, coresponder team, designated crisis responder,  
34 fire department mobile integrated health team, community assistance  
35 referral and education services program under RCW 35.21.930, and law  
36 enforcement personnel.

37 (32) "Immediate jeopardy" means a situation in which the licensed  
38 or certified behavioral health agency's noncompliance with one or  
39 more statutory or regulatory requirements has placed the health and

1 safety of patients in its care at risk for serious injury, serious  
2 harm, serious impairment, or death.

3 (33) "Indian health care provider" means a health care program  
4 operated by the Indian health service or by a tribe, tribal  
5 organization, or urban Indian organization as those terms are defined  
6 in the Indian health care improvement act (25 U.S.C. Sec. 1603).

7 ~~((33))~~ (34) "Intensive behavioral health treatment facility"  
8 means a community-based specialized residential treatment facility  
9 for individuals with behavioral health conditions, including  
10 individuals discharging from or being diverted from state and local  
11 hospitals, whose impairment or behaviors do not meet, or no longer  
12 meet, criteria for involuntary inpatient commitment under chapter  
13 71.05 RCW, but whose care needs cannot be met in other community-  
14 based placement settings.

15 ~~((34))~~ (35) "Licensed or certified behavioral health agency"  
16 means:

17 (a) An entity licensed or certified according to this chapter or  
18 chapter 71.05 RCW;

19 (b) An entity deemed to meet state minimum standards as a result  
20 of accreditation by a recognized behavioral health accrediting body  
21 recognized and having a current agreement with the department; or

22 (c) An entity with a tribal attestation that it meets state  
23 minimum standards for a licensed or certified behavioral health  
24 agency.

25 ~~((35))~~ (36) "Licensed physician" means a person licensed to  
26 practice medicine or osteopathic medicine and surgery in the state of  
27 Washington.

28 ~~((36))~~ (37) "Long-term inpatient care" means inpatient services  
29 for persons committed for, or voluntarily receiving intensive  
30 treatment for, periods of ~~((ninety))~~ 90 days or greater under chapter  
31 71.05 RCW. "Long-term inpatient care" as used in this chapter does  
32 not include: (a) Services for individuals committed under chapter  
33 71.05 RCW who are receiving services pursuant to a conditional  
34 release or a court-ordered less restrictive alternative to detention;  
35 or (b) services for individuals voluntarily receiving less  
36 restrictive alternative treatment on the grounds of the state  
37 hospital.

38 ~~((37))~~ (38) "Managed care organization" means an organization,  
39 having a certificate of authority or certificate of registration from  
40 the office of the insurance commissioner, that contracts with the



1 authority under a comprehensive risk contract to provide prepaid  
2 health care services to enrollees under the authority's managed care  
3 programs under chapter 74.09 RCW.

4 ~~((38))~~ (39) "Mental health peer-run respite center" means a  
5 peer-run program to serve individuals in need of voluntary, short-  
6 term, noncrisis services that focus on recovery and wellness.

7 ~~((39))~~ (40) Mental health "treatment records" include  
8 registration and all other records concerning persons who are  
9 receiving or who at any time have received services for mental  
10 illness, which are maintained by the department of social and health  
11 services or the authority, by behavioral health administrative  
12 services organizations and their staffs, by managed care  
13 organizations and their staffs, or by treatment facilities.  
14 "Treatment records" do not include notes or records maintained for  
15 personal use by a person providing treatment services for the  
16 entities listed in this subsection, or a treatment facility if the  
17 notes or records are not available to others.

18 ~~((40))~~ (41) "Mentally ill persons," "persons who are mentally  
19 ill," and "the mentally ill" mean persons and conditions defined in  
20 subsections (3), (13), ~~((48))~~ (49), and ~~((49))~~ (50) of this  
21 section.

22 ~~((41))~~ (42) "Mobile rapid response crisis team" means a team  
23 that provides professional on-site community-based intervention such  
24 as outreach, de-escalation, stabilization, resource connection, and  
25 follow-up support for individuals who are experiencing a behavioral  
26 health crisis, that shall include certified peer counselors as a best  
27 practice to the extent practicable based on workforce availability,  
28 and that meets standards for response times established by the  
29 authority.

30 ~~((42))~~ (43) "Recovery" means a process of change through which  
31 individuals improve their health and wellness, live a self-directed  
32 life, and strive to reach their full potential.

33 ~~((43))~~ (44) "Research-based" means a program or practice that  
34 has been tested with a single randomized, or statistically controlled  
35 evaluation, or both, demonstrating sustained desirable outcomes; or  
36 where the weight of the evidence from a systemic review supports  
37 sustained outcomes as described in subsection (30) of this section  
38 but does not meet the full criteria for evidence-based.

39 ~~((44))~~ (45) "Residential services" means a complete range of  
40 residences and supports authorized by resource management services

1 and which may involve a facility, a distinct part thereof, or  
2 services which support community living, for persons who are acutely  
3 mentally ill, adults who are chronically mentally ill, children who  
4 are severely emotionally disturbed, or adults who are seriously  
5 disturbed and determined by the behavioral health administrative  
6 services organization or managed care organization to be at risk of  
7 becoming acutely or chronically mentally ill. The services shall  
8 include at least evaluation and treatment services as defined in  
9 chapter 71.05 RCW, acute crisis respite care, long-term adaptive and  
10 rehabilitative care, and supervised and supported living services,  
11 and shall also include any residential services developed to service  
12 persons who are mentally ill in nursing homes, residential treatment  
13 facilities, assisted living facilities, and adult family homes, and  
14 may include outpatient services provided as an element in a package  
15 of services in a supported housing model. Residential services for  
16 children in out-of-home placements related to their mental disorder  
17 shall not include the costs of food and shelter, except for  
18 children's long-term residential facilities existing prior to January  
19 1, 1991.

20 ~~((45))~~ (46) "Resilience" means the personal and community  
21 qualities that enable individuals to rebound from adversity, trauma,  
22 tragedy, threats, or other stresses, and to live productive lives.

23 ~~((46))~~ (47) "Resource management services" mean the planning,  
24 coordination, and authorization of residential services and community  
25 support services administered pursuant to an individual service plan  
26 for: (a) Adults and children who are acutely mentally ill; (b) adults  
27 who are chronically mentally ill; (c) children who are severely  
28 emotionally disturbed; or (d) adults who are seriously disturbed and  
29 determined by a behavioral health administrative services  
30 organization or managed care organization to be at risk of becoming  
31 acutely or chronically mentally ill. Such planning, coordination, and  
32 authorization shall include mental health screening for children  
33 eligible under the federal Title XIX early and periodic screening,  
34 diagnosis, and treatment program. Resource management services  
35 include seven day a week, ~~((twenty-four))~~ 24 hour a day availability  
36 of information regarding enrollment of adults and children who are  
37 mentally ill in services and their individual service plan to  
38 designated crisis responders, evaluation and treatment facilities,  
39 and others as determined by the behavioral health administrative  
40 services organization or managed care organization, as applicable.

1       (~~(47)~~) (48) "Secretary" means the secretary of the department  
2 of health.

3       (~~(48)~~) (49) "Seriously disturbed person" means a person who:

4       (a) Is gravely disabled or presents a likelihood of serious harm  
5 to himself or herself or others, or to the property of others, as a  
6 result of a mental disorder as defined in chapter 71.05 RCW;

7       (b) Has been on conditional release status, or under a less  
8 restrictive alternative order, at some time during the preceding two  
9 years from an evaluation and treatment facility or a state mental  
10 health hospital;

11       (c) Has a mental disorder which causes major impairment in  
12 several areas of daily living;

13       (d) Exhibits suicidal preoccupation or attempts; or

14       (e) Is a child diagnosed by a mental health professional, as  
15 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
16 is clearly interfering with the child's functioning in family or  
17 school or with peers or is clearly interfering with the child's  
18 personality development and learning.

19       (~~(49)~~) (50) "Severely emotionally disturbed child" or "child  
20 who is severely emotionally disturbed" means a child who has been  
21 determined by the behavioral health administrative services  
22 organization or managed care organization, if applicable, to be  
23 experiencing a mental disorder as defined in chapter 71.34 RCW,  
24 including those mental disorders that result in a behavioral or  
25 conduct disorder, that is clearly interfering with the child's  
26 functioning in family or school or with peers and who meets at least  
27 one of the following criteria:

28       (a) Has undergone inpatient treatment or placement outside of the  
29 home related to a mental disorder within the last two years;

30       (b) Has undergone involuntary treatment under chapter 71.34 RCW  
31 within the last two years;

32       (c) Is currently served by at least one of the following child-  
33 serving systems: Juvenile justice, child-protection/welfare, special  
34 education, or developmental disabilities;

35       (d) Is at risk of escalating maladjustment due to:

36       (i) Chronic family dysfunction involving a caretaker who is  
37 mentally ill or inadequate;

38       (ii) Changes in custodial adult;

39       (iii) Going to, residing in, or returning from any placement  
40 outside of the home, for example, (~~psychiatric~~) behavioral health

1 hospital, short-term inpatient, residential treatment, group or  
2 foster home, or a correctional facility;

3 (iv) Subject to repeated physical abuse or neglect;

4 (v) Drug or alcohol abuse; or

5 (vi) Homelessness.

6 (~~(50)~~) (51) "State minimum standards" means minimum  
7 requirements established by rules adopted and necessary to implement  
8 this chapter by:

9 (a) The authority for:

10 (i) Delivery of mental health and substance use disorder  
11 services; and

12 (ii) Community support services and resource management services;

13 (b) The department of health for:

14 (i) Licensed or certified behavioral health agencies for the  
15 purpose of providing mental health or substance use disorder programs  
16 and services, or both;

17 (ii) Licensed behavioral health providers for the provision of  
18 mental health or substance use disorder services, or both; and

19 (iii) Residential services.

20 (~~(51)~~) (52) "Substance use disorder" means a cluster of  
21 cognitive, behavioral, and physiological symptoms indicating that an  
22 individual continues using the substance despite significant  
23 substance-related problems. The diagnosis of a substance use disorder  
24 is based on a pathological pattern of behaviors related to the use of  
25 the substances.

26 (~~(52)~~) (53) "Tribe," for the purposes of this section, means a  
27 federally recognized Indian tribe.

28 **Sec. 26.** RCW 71.24.037 and 2023 c 454 s 2 are each amended to  
29 read as follows:

30 (1) The secretary shall license or certify any agency or facility  
31 that: (a) Submits payment of the fee established under RCW 43.70.110  
32 and 43.70.250; and (b) submits a complete application that  
33 demonstrates the ability to comply with requirements for operating  
34 and maintaining an agency or facility in statute or rule(~~(; and (c)~~  
35 ~~successfully completes the prelicensure inspection requirement)~~).

36 (2) The secretary shall establish by rule minimum standards for  
37 licensed or certified behavioral health agencies that must, at a  
38 minimum, establish: (a) Qualifications for staff providing services  
39 directly to persons with mental disorders, substance use disorders,

1 or both; (b) the intended result of each service; and (c) the rights  
2 and responsibilities of persons receiving behavioral health services  
3 pursuant to this chapter and chapters 71.34 and ((chapter)) 71.05  
4 RCW. The secretary shall provide for deeming of licensed or certified  
5 behavioral health agencies as meeting state minimum standards as a  
6 result of accreditation by a recognized behavioral health accrediting  
7 body recognized and having a current agreement with the department.

8 ~~(3) ((The department shall review reports or other information~~  
9 ~~alleging a failure to comply with this chapter or the standards and~~  
10 ~~rules adopted under this chapter and may initiate investigations and~~  
11 ~~enforcement actions based on those reports.~~

12 ~~(4) The department shall conduct inspections of agencies and~~  
13 ~~facilities, including reviews of records and documents required to be~~  
14 ~~maintained under this chapter or rules adopted under this chapter.~~

15 ~~(5) The department may suspend, revoke, limit, restrict, or~~  
16 ~~modify an approval, or refuse to grant approval, for failure to meet~~  
17 ~~the provisions of this chapter, or the standards adopted under this~~  
18 ~~chapter. RCW 43.70.115 governs notice of a license or certification~~  
19 ~~denial, revocation, suspension, or modification and provides the~~  
20 ~~right to an adjudicative proceeding.~~

21 ~~(6))~~ No licensed or certified behavioral health agency may  
22 advertise or represent itself as a licensed or certified behavioral  
23 health agency if approval has not been granted or has been denied,  
24 suspended, revoked, or canceled.

25 ~~((7))~~ (4) Licensure or certification as a behavioral health  
26 agency is effective for one calendar year from the date of issuance  
27 of the license or certification. The license or certification must  
28 specify the types of services provided by the behavioral health  
29 agency that meet the standards adopted under this chapter. Renewal of  
30 a license or certification must be made in accordance with this  
31 section for initial approval and in accordance with the standards set  
32 forth in rules adopted by the secretary.

33 ~~((8))~~ (5) Licensure or certification as a licensed or certified  
34 behavioral health agency must specify the types of services provided  
35 that meet the standards adopted under this chapter. Renewal of a  
36 license or certification must be made in accordance with this section  
37 for initial approval and in accordance with the standards set forth  
38 in rules adopted by the secretary.

1       ~~((9))~~ (6) The department shall develop a process by which a  
2 provider may obtain dual licensure as an evaluation and treatment  
3 facility and secure withdrawal management and stabilization facility.

4       ~~((10))~~ (7) Licensed or certified behavioral health agencies may  
5 not provide types of services for which the licensed or certified  
6 behavioral health agency has not been certified. Licensed or  
7 certified behavioral health agencies may provide services for which  
8 approval has been sought and is pending, if approval for the services  
9 has not been previously revoked or denied.

10       ~~((11) The department periodically shall inspect licensed or  
11 certified behavioral health agencies at reasonable times and in a  
12 reasonable manner.~~

13       ~~(12) Upon petition of the department and after a hearing held  
14 upon reasonable notice to the facility, the superior court may issue  
15 a warrant to an officer or employee of the department authorizing him  
16 or her to enter and inspect at reasonable times, and examine the  
17 books and accounts of, any licensed or certified behavioral health  
18 agency refusing to consent to inspection or examination by the  
19 department or which the department has reasonable cause to believe is  
20 operating in violation of this chapter.~~

21       ~~(13))~~ (8) The department shall maintain and periodically publish  
22 a current list of licensed or certified behavioral health agencies.

23       ~~((14) Each licensed or certified behavioral health agency shall  
24 file with the department or the authority upon request, data,  
25 statistics, schedules, and information the department or the  
26 authority reasonably requires. A licensed or certified behavioral  
27 health agency that without good cause fails to furnish any data,  
28 statistics, schedules, or information as requested, or files  
29 fraudulent returns thereof, may have its license or certification  
30 revoked or suspended.~~

31       ~~(15) The authority shall use the data provided in subsection (14)  
32 of this section to evaluate each program that admits children to  
33 inpatient substance use disorder treatment upon application of their  
34 parents. The evaluation must be done at least once every twelve  
35 months. In addition, the authority shall randomly select and review  
36 the information on individual children who are admitted on  
37 application of the child's parent for the purpose of determining  
38 whether the child was appropriately placed into substance use  
39 disorder treatment based on an objective evaluation of the child's  
40 condition and the outcome of the child's treatment.~~

1       ~~(16) Any settlement agreement entered into between the department~~  
2 ~~and licensed or certified behavioral health agencies to resolve~~  
3 ~~administrative complaints, license or certification violations,~~  
4 ~~license or certification suspensions, or license or certification~~  
5 ~~revocations may not reduce the number of violations reported by the~~  
6 ~~department unless the department concludes, based on evidence~~  
7 ~~gathered by inspectors, that the licensed or certified behavioral~~  
8 ~~health agency did not commit one or more of the violations.~~

9       ~~(17) In cases in which a behavioral health agency that is in~~  
10 ~~violation of licensing or certification standards attempts to~~  
11 ~~transfer or sell the behavioral health agency to a family member, the~~  
12 ~~transfer or sale may only be made for the purpose of remedying~~  
13 ~~license or certification violations and achieving full compliance~~  
14 ~~with the terms of the license or certification. Transfers or sales to~~  
15 ~~family members are prohibited in cases in which the purpose of the~~  
16 ~~transfer or sale is to avoid liability or reset the number of license~~  
17 ~~or certification violations found before the transfer or sale. If the~~  
18 ~~department finds that the owner intends to transfer or sell, or has~~  
19 ~~completed the transfer or sale of, ownership of the behavioral health~~  
20 ~~agency to a family member solely for the purpose of resetting the~~  
21 ~~number of violations found before the transfer or sale, the~~  
22 ~~department may not renew the behavioral health agency's license or~~  
23 ~~certification or issue a new license or certification to the~~  
24 ~~behavioral health service provider.~~

25       ~~(18) Every licensed or certified outpatient behavioral health~~  
26 ~~agency shall display the 988 crisis hotline number in common areas of~~  
27 ~~the premises and include the number as a calling option on any phone~~  
28 ~~message for persons calling the agency after business hours.~~

29       ~~(19) Every licensed or certified inpatient or residential~~  
30 ~~behavioral health agency must include the 988 crisis hotline number~~  
31 ~~in the discharge summary provided to individuals being discharged~~  
32 ~~from inpatient or residential services.))~~

33       NEW SECTION.   **Sec. 27.**   A new section is added to chapter 71.24  
34 RCW to read as follows:

35       (1) The department shall review reports or other information  
36 alleging a failure to comply with this chapter or the standards and  
37 rules adopted under this chapter and may initiate investigations and  
38 enforcement actions based on those reports.

1 (2) The department shall conduct inspections of licensed or  
2 certified behavioral health agencies, including reviews of records  
3 and documents required to be maintained under this chapter or rules  
4 adopted under this chapter.

5 (3) Each licensed or certified behavioral health agency shall  
6 file with the department or the authority upon request data,  
7 statistics, schedules, medical records, and other information the  
8 department or the authority reasonably requires. A licensed or  
9 certified behavioral health agency that without good cause fails to  
10 furnish any data, statistics, schedules, or information as requested,  
11 or files fraudulent returns thereof, may have its license or  
12 certification revoked or suspended.

13 (4) The authority shall use the data provided in subsection (3)  
14 of this section to evaluate each program that admits children to  
15 inpatient substance use disorder treatment upon application of their  
16 parents. The evaluation shall be done at least once every 12 months.  
17 In addition, the authority shall randomly select and review the  
18 information on individual children who are admitted on application of  
19 the child's parent for the purpose of determining whether the child  
20 was appropriately placed into substance use disorder treatment based  
21 on an objective evaluation of the child's condition and the outcome  
22 of the child's treatment.

23 (5) Any settlement agreement entered into between the department  
24 and licensed or certified behavioral health agencies to resolve  
25 administrative complaints, license or certification violations,  
26 license or certification suspensions, or license or certification  
27 revocations may not reduce the number of violations reported by the  
28 department unless the department concludes, based on evidence  
29 gathered by inspectors, that the licensed or certified behavioral  
30 health agency did not commit one or more of the violations.

31 (6) In cases in which a licensed or certified behavioral health  
32 agency that is in violation of licensing or certification standards  
33 attempts to transfer or sell the behavioral health agency to a family  
34 member, the transfer or sale may only be made for the purpose of  
35 remedying license or certification violations and achieving full  
36 compliance with the terms of the license or certification. Transfers  
37 or sales to family members are prohibited in cases in which the  
38 purpose of the transfer or sale is to avoid liability or reset the  
39 number of license or certification violations found before the  
40 transfer or sale. If the department finds that the owner intends to



1 transfer or sell, or has completed the transfer or sale of, ownership  
2 of the behavioral health agency to a family member solely for the  
3 purpose of resetting the number of violations found before the  
4 transfer or sale, the department may not renew the behavioral health  
5 agency's license or certification or issue a new license or  
6 certification to the behavioral health provider.

7 (7) In any case in which the department finds that a licensed or  
8 certified behavioral health agency has failed or refused to comply  
9 with the requirements of this chapter or the standards or rules  
10 adopted under this chapter, the department may take one or more of  
11 the actions identified in this section, except as otherwise limited  
12 in this section.

13 (a) When the department determines the licensed or certified  
14 behavioral health agency has previously been subject to an  
15 enforcement action for the same or similar type of violation of the  
16 same statute or rule, or has been given any previous statement of  
17 deficiency that included the same or similar type of violation of the  
18 same or similar statute or rule, or when the licensed or certified  
19 behavioral health agency failed to correct noncompliance with a  
20 statute or rule by a date established or agreed to by the department,  
21 the department may impose reasonable conditions on a license.  
22 Conditions may include correction within a specified amount of time,  
23 training, or hiring a department-approved consultant if the licensed  
24 or certified behavioral health agency cannot demonstrate to the  
25 department that it has access to sufficient internal expertise.

26 (b) (i) In accordance with the department's authority under RCW  
27 43.70.095, the department may assess a civil fine of up to \$3,000 per  
28 violation on a licensed or certified behavioral health agency when  
29 the department determines the licensed or certified behavioral health  
30 agency has previously been subject to an enforcement action for the  
31 same or similar type of violation of the same statute or rule, or has  
32 been given any previous statement of deficiency that included the  
33 same or similar type of violation of the same or similar statute or  
34 rule, or when the licensed or certified behavioral health agency  
35 failed to correct noncompliance with a statute or rule by a date  
36 established or agreed to by the department.

37 (ii) Proceeds from these fines may only be used by the department  
38 to provide training or technical assistance to licensed or certified  
39 behavioral health agencies and to offset costs associated with

1 licensing, certification, or enforcement of behavioral health  
2 agencies.

3 (iii) The department shall adopt in rules under this chapter  
4 specific fine amounts in relation to the severity of the  
5 noncompliance and at an adequate level to be a deterrent to future  
6 noncompliance.

7 (iv) If a licensee is aggrieved by the department's action of  
8 assessing civil fines, the licensee has the right to appeal under RCW  
9 43.70.095.

10 (c) The department may suspend new intake or admission of a  
11 specific category or categories of individuals receiving behavioral  
12 health services as related to the violation by imposing a limited  
13 stop placement. This may only be done if the department finds that  
14 noncompliance results in immediate jeopardy.

15 (i) Prior to imposing a limited stop placement, the department  
16 shall provide a licensed or certified behavioral health agency  
17 written notification upon identifying deficient practices or  
18 conditions that constitute an immediate jeopardy, and the licensed or  
19 certified behavioral health agency shall have 24 hours from  
20 notification to develop and implement a department-approved plan to  
21 correct the deficient practices or conditions that constitute an  
22 immediate jeopardy. If the deficient practices or conditions that  
23 constitute immediate jeopardy are not verified by the department as  
24 having been corrected within the same 24-hour period, the department  
25 may issue the limited stop placement.

26 (ii) When the department imposes a limited stop placement, the  
27 licensed or certified behavioral health agency may not accept any new  
28 individuals in the category or categories subject to the limited stop  
29 placement until the limited stop placement is terminated.

30 (iii) The department shall conduct a follow-up inspection within  
31 five business days or within the time period requested by the  
32 licensed or certified behavioral health agency if more than five  
33 business days is needed to verify the violation necessitating the  
34 limited stop placement has been corrected.

35 (iv) The limited stop placement shall be terminated when:

36 (A) The department verifies the violation necessitating the  
37 limited stop placement has been corrected or the department  
38 determines that the licensed or certified behavioral health agency  
39 has taken intermediate action to address the immediate jeopardy; and

1 (B) The licensed or certified behavioral health agency  
2 establishes the ability to maintain correction of the violation  
3 previously found deficient.

4 (d) The department may suspend new intake or admission of  
5 individuals receiving behavioral health services as related to the  
6 violation by imposing a stop placement. This may only be done if the  
7 department finds that noncompliance results in immediate jeopardy and  
8 is not confined to a specific category or categories of individuals.

9 (i) Prior to imposing a stop placement, the department shall  
10 provide a licensed or certified behavioral health agency written  
11 notification upon identifying deficient practices or conditions that  
12 constitute an immediate jeopardy. The licensed or certified  
13 behavioral health agency shall have 24 hours from notification to  
14 develop and implement a department-approved plan to correct the  
15 deficient practices or conditions that constitute an immediate  
16 jeopardy. If the deficient practices or conditions that constitute an  
17 immediate jeopardy are not verified by the department as having been  
18 corrected within the same 24-hour period, the department may issue  
19 the stop placement.

20 (ii) When the department imposes a stop placement, the licensed  
21 or certified behavioral health agency may not accept any new  
22 individuals receiving behavioral health services until the stop  
23 placement is terminated.

24 (iii) The department shall conduct a follow-up inspection within  
25 five business days or within the time period requested by the  
26 licensed or certified behavioral health agency if more than five  
27 business days is needed to verify the violation necessitating the  
28 stop placement has been corrected.

29 (iv) The stop placement shall be terminated when:

30 (A) The department verifies the violation necessitating the stop  
31 placement has been corrected or the department determines that the  
32 licensed or certified behavioral health agency has taken intermediate  
33 action to address the immediate jeopardy; and

34 (B) The licensed or certified behavioral health agency  
35 establishes the ability to maintain correction of the violation  
36 previously found deficient.

37 (e) The department may suspend a specific category or categories  
38 of behavioral health services as related to the violation by imposing  
39 a limited stop service. This may only be done if the department finds  
40 that noncompliance results in immediate jeopardy.

1 (i) Prior to imposing a limited stop service, the department  
2 shall provide a licensed or certified behavioral health agency  
3 written notification upon identifying deficient practices or  
4 conditions that constitute an immediate jeopardy. The licensed or  
5 certified behavioral health agency shall have 24 hours from  
6 notification to develop and implement a department-approved plan to  
7 correct the deficient practices or conditions that constitute an  
8 immediate jeopardy. If the deficient practices or conditions that  
9 constitute immediate jeopardy are not verified by the department as  
10 having been corrected within the same 24-hour period, the department  
11 may issue the limited stop service.

12 (ii) When the department imposes a limited stop service, the  
13 licensed or certified behavioral health agency may not provide the  
14 services in the category or categories subject to the limited stop  
15 service to any new or existing individuals, unless otherwise allowed  
16 by the department, until the limited stop service is terminated.

17 (iii) The department shall conduct a follow-up inspection within  
18 five business days or within the time period requested by the  
19 licensed or certified behavioral health agency if more than five  
20 business days is needed to verify the violation necessitating the  
21 limited stop service has been corrected.

22 (iv) The limited stop service shall be terminated when:

23 (A) The department verifies the violation necessitating the  
24 limited stop service has been corrected or the department determines  
25 that the licensed or certified behavioral health agency has taken  
26 intermediate action to address the immediate jeopardy; and

27 (B) The licensed or certified behavioral health agency  
28 establishes the ability to maintain correction of the violation  
29 previously found deficient.

30 (f) The department may suspend, revoke, or refuse to renew a  
31 license.

32 (8) (a) Except as otherwise provided, RCW 43.70.115 governs notice  
33 of the imposition of conditions on a license, a limited stop  
34 placement, stop placement, limited stop service, or the suspension,  
35 revocation, or refusal to renew a license and provides the right to  
36 an adjudicative proceeding. Adjudicative proceedings and hearings  
37 under this section are governed by the administrative procedure act,  
38 chapter 34.05 RCW. The application for an adjudicative proceeding  
39 must be in writing, state the basis for contesting the adverse  
40 action, include a copy of the department's notice, be served on and

1 received by the department within 28 days of the licensee's receipt  
2 of the adverse notice, and be served in a manner that shows proof of  
3 receipt.

4 (b) When the department determines a licensee's noncompliance  
5 results in immediate jeopardy, the department may make the imposition  
6 of conditions on a licensee, a limited stop placement, stop  
7 placement, limited stop service, or the suspension of a license  
8 effective immediately upon receipt of the notice by the licensee,  
9 pending any adjudicative proceeding.

10 (i) When the department makes the suspension of a license or  
11 imposition of conditions on a license effective immediately, a  
12 licensee is entitled to a show cause hearing before a presiding  
13 officer within 14 days of making the request. The licensee must  
14 request the show cause hearing within 28 days of receipt of the  
15 notice of immediate suspension or immediate imposition of conditions.  
16 At the show cause hearing the department has the burden of  
17 demonstrating that more probably than not there is an immediate  
18 jeopardy.

19 (ii) At the show cause hearing, the presiding officer may  
20 consider the notice and documents supporting the immediate suspension  
21 or immediate imposition of conditions and the licensee's response and  
22 shall provide the parties with an opportunity to provide documentary  
23 evidence and written testimony, and to be represented by counsel.  
24 Prior to the show cause hearing, the department shall provide the  
25 licensee with all documentation that supports the department's  
26 immediate suspension or immediate imposition of conditions.

27 (iii) If the presiding officer determines there is no immediate  
28 jeopardy, the presiding officer may overturn the immediate suspension  
29 or immediate imposition of conditions.

30 (iv) If the presiding officer determines there is immediate  
31 jeopardy, the immediate suspension or immediate imposition of  
32 conditions shall remain in effect pending a full hearing.

33 (v) If the secretary sustains the immediate suspension or  
34 immediate imposition of conditions, the licensee may request an  
35 expedited full hearing on the merits of the department's action. A  
36 full hearing must be provided within 90 days of the licensee's  
37 request.

38 (9) When the department determines an alleged violation, if true,  
39 would constitute an immediate jeopardy, and the licensee fails to  
40 cooperate with the department's investigation of such an alleged

1 violation, the department may impose an immediate limited stop  
2 placement, immediate stop placement, immediate limited stop service,  
3 immediate imposition of conditions, or immediate suspension.

4 (a) When the department imposes an immediate limited stop  
5 placement, immediate stop placement, immediate limited stop service,  
6 immediate imposition of conditions, or immediate suspension for  
7 failure to cooperate, a licensee is entitled to a show cause hearing  
8 before a presiding officer within 14 days of making the request. The  
9 licensee must request the show cause hearing within 28 days of  
10 receipt of the notice of an immediate limited stop placement,  
11 immediate stop placement, immediate limited stop service, immediate  
12 imposition of conditions, or immediate suspension for failure to  
13 cooperate. At the show cause hearing the department has the burden of  
14 demonstrating that more probably than not the alleged violation, if  
15 true, would constitute an immediate jeopardy and the licensee failed  
16 to cooperate with the department's investigation.

17 (b) At the show cause hearing, the presiding officer may consider  
18 the notice and documents supporting the immediate limited stop  
19 placement, immediate stop placement, immediate limited stop service,  
20 immediate imposition of conditions, or immediate suspension for  
21 failure to cooperate, and the licensee's response and shall provide  
22 the parties with an opportunity to provide documentary evidence and  
23 written testimony, and to be represented by counsel. Prior to the  
24 show cause hearing, the department shall provide the licensee with  
25 all documentation that supports the department's immediate action for  
26 failure to cooperate.

27 (c) If the presiding officer determines the alleged violation, if  
28 true, does not constitute an immediate jeopardy or determines that  
29 the licensee cooperated with the department's investigation, the  
30 presiding officer may overturn the immediate action for failure to  
31 cooperate.

32 (d) If the presiding officer determines the allegation, if true,  
33 would constitute an immediate jeopardy and the licensee failed to  
34 cooperate with the department's investigation, the immediate action  
35 for failure to cooperate shall remain in effect pending a full  
36 hearing.

37 (e) If the presiding officer sustains the immediate action for  
38 failure to cooperate, the licensee may request an expedited full  
39 hearing on the merits of the department's action. A full hearing must  
40 be provided within 90 days of the licensee's request.

1       **Sec. 28.** RCW 70.170.020 and 2022 c 197 s 1 are each amended to  
2 read as follows:

3       As used in this chapter:

4       (1) "Department" means department of health.

5       (2) "Hospital" means any health care institution which is  
6 required to qualify for a license under RCW 70.41.020(8); or as a  
7 (~~psychiatric~~) behavioral health hospital under chapter 71.12 RCW.

8       (3) "Secretary" means secretary of health.

9       (4) "Charity care" means medically necessary hospital health care  
10 rendered to indigent persons when third-party coverage, if any, has  
11 been exhausted, to the extent that the persons are unable to pay for  
12 the care or to pay deductibles or coinsurance amounts required by a  
13 third-party payer, as determined by the department.

14       (5) "Indigent persons" are those patients or their guarantors who  
15 qualify for charity care pursuant to RCW 70.170.060(5) based on the  
16 federal poverty level, adjusted for family size, and who have  
17 exhausted any third-party coverage.

18       (6) "Third-party coverage" means an obligation on the part of an  
19 insurance company, health care service contractor, health maintenance  
20 organization, group health plan, government program, tribal health  
21 benefits, or health care sharing ministry as defined in 26 U.S.C.  
22 Sec. 5000A to pay for the care of covered patients and services, and  
23 may include settlements, judgments, or awards actually received  
24 related to the negligent acts of others which have resulted in the  
25 medical condition for which the patient has received hospital health  
26 care service. The pendency of such settlements, judgments, or awards  
27 must not stay hospital obligations to consider an eligible patient  
28 for charity care.

29       (7) "Special studies" means studies which have not been funded  
30 through the department's biennial or other legislative  
31 appropriations.

32       **Sec. 29.** RCW 18.64.005 and 2022 c 240 s 15 are each amended to  
33 read as follows:

34       The commission shall:

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

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

1 (3) Establish the qualifications for licensure of pharmacists or  
2 pharmacy interns;

3 (4) Conduct hearings for the revocation or suspension of  
4 licenses, permits, registrations, certificates, or any other  
5 authority to practice granted by the commission, which hearings may  
6 also be conducted by an administrative law judge appointed under  
7 chapter 34.12 RCW or a presiding officer designated by the  
8 commission. The commission may authorize the secretary, or their  
9 designee, to serve as the presiding officer for any disciplinary  
10 proceedings of the commission (~~(authorized under this chapter)~~). The  
11 presiding officer shall not vote on or make any final decision in  
12 cases pertaining to standards of practice or where clinical expertise  
13 is necessary. All functions performed by the presiding officer shall  
14 be subject to chapter 34.05 RCW;

15 (5) Issue subpoenas and administer oaths in connection with any  
16 hearing, or disciplinary proceeding held under this chapter or any  
17 other chapter assigned to the commission;

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

22 (7) Promulgate rules for the dispensing, distribution,  
23 wholesaling, and manufacturing of drugs and devices and the practice  
24 of pharmacy for the protection and promotion of the public health,  
25 safety, and welfare. Violation of any such rules shall constitute  
26 grounds for (~~(refusal)~~) denial of an application, assessment of a  
27 civil fine, imposition of a limited stop service, imposition of  
28 reasonable conditions, suspension, (~~(or)~~) revocation, or modification  
29 of licenses or any other authority to practice issued by the  
30 commission;

31 (8) Adopt rules establishing and governing continuing education  
32 requirements for pharmacists and other licensees applying for renewal  
33 of licenses under this chapter;

34 (9) Be immune, collectively and individually, from suit in any  
35 action, civil or criminal, based upon any disciplinary proceedings or  
36 other official acts performed as members of the commission. Such  
37 immunity shall apply to employees of the department when acting in  
38 the course of disciplinary proceedings;



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

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

7 (12) Monitor trends of drug misuse, diversion, and abuse and make  
8 periodic reports to disciplinary boards of licensed health care  
9 practitioners and education, treatment, and appropriate law  
10 enforcement agencies regarding these trends;

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

24 (14) Whenever the workload of the commission requires, request  
25 that the secretary appoint pro tempore members. While serving as  
26 members pro tempore persons have all the powers, duties, and  
27 immunities, and are entitled to the emoluments, including travel  
28 expenses, of the commission.

29 **Sec. 30.** RCW 18.64.011 and 2021 c 78 s 1 are each amended to  
30 read as follows:

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

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

36 (2) "Business licensing system" means the mechanism established  
37 by chapter 19.02 RCW by which business licenses, endorsed for  
38 individual state-issued licenses, are issued and renewed utilizing a

1 business license application and a business license expiration date  
2 common to each renewable license endorsement.

3 (3) "Chart order" means a lawful order for a drug or device  
4 entered on the chart or medical record of an inpatient or resident of  
5 an institutional facility by a practitioner or his or her designated  
6 agent.

7 (4) "Closed door long-term care pharmacy" means a pharmacy that  
8 provides pharmaceutical care to a defined and exclusive group of  
9 patients who have access to the services of the pharmacy because they  
10 are treated by or have an affiliation with a long-term care facility  
11 or hospice program, and that is not a retailer of goods to the  
12 general public.

13 (5) "Commission" means the pharmacy quality assurance commission.

14 (6) "Compounding" means the act of combining two or more  
15 ingredients in the preparation of a prescription. Reconstitution and  
16 mixing of (a) sterile products according to federal food and drug  
17 administration-approved labeling does not constitute compounding if  
18 prepared pursuant to a prescription and administered immediately or  
19 in accordance with package labeling, and (b) nonsterile products  
20 according to federal food and drug administration-approved labeling  
21 does not constitute compounding if prepared pursuant to a  
22 prescription.

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

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

29 (9) "Department" means the department of health.

30 (10) "Device" means instruments, apparatus, and contrivances,  
31 including their components, parts, and accessories, intended (a) for  
32 use in the diagnosis, cure, mitigation, treatment, or prevention of  
33 disease in human beings or other animals, or (b) to affect the  
34 structure or any function of the body of human beings or other  
35 animals.

36 (11) "Dispense" means the interpretation of a prescription or  
37 order for a drug, biological, or device and, pursuant to that  
38 prescription or order, the proper selection, measuring, compounding,  
39 labeling, or packaging necessary to prepare that prescription or  
40 order for delivery.

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

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

14 (14) "Drugs" means:

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

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

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

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

26 (15) "Health care entity" means an organization that provides  
27 health care services in a setting that is not otherwise licensed by  
28 the state to acquire or possess legend drugs. Health care entity  
29 includes a freestanding outpatient surgery center, a residential  
30 treatment facility, and a freestanding cardiac care center. "Health  
31 care entity" does not include an individual practitioner's office or  
32 a multipractitioner clinic, regardless of ownership, unless the owner  
33 elects licensure as a health care entity. "Health care entity" also  
34 does not include an individual practitioner's office or  
35 multipractitioner clinic identified by a hospital on a pharmacy  
36 application or renewal pursuant to RCW 18.64.043.

37 (16) "Hospice program" means a hospice program certified or paid  
38 by medicare under Title XVIII of the federal social security act, or  
39 a hospice program licensed under chapter 70.127 RCW.

1 (17) "Institutional facility" means any organization whose  
2 primary purpose is to provide a physical environment for patients to  
3 obtain health care services including, but not limited to, services  
4 in a hospital, long-term care facility, hospice program, mental  
5 health facility, drug abuse treatment center, residential  
6 habilitation center, or a local, state, or federal correction  
7 facility.

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

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

15 (20) "Long-term care facility" means a nursing home licensed  
16 under chapter 18.51 RCW, an assisted living facility licensed under  
17 chapter 18.20 RCW, or an adult family home licensed under chapter  
18 70.128 RCW.

19 (21) "Manufacture" means the production, preparation,  
20 propagation, compounding, or processing of a drug or other substance  
21 or device or the packaging or repackaging of such substance or  
22 device, or the labeling or relabeling of the commercial container of  
23 such substance or device, but does not include the activities of a  
24 practitioner who, as an incident to his or her administration or  
25 dispensing such substance or device in the course of his or her  
26 professional practice, personally prepares, compounds, packages, or  
27 labels such substance or device. "Manufacture" includes the  
28 distribution of a licensed pharmacy compounded drug product to other  
29 state licensed persons or commercial entities for subsequent resale  
30 or distribution, unless a specific product item has approval of the  
31 commission. The term does not include:

32 (a) The activities of a licensed pharmacy that compounds a  
33 product on or in anticipation of an order of a licensed practitioner  
34 for use in the course of their professional practice to administer to  
35 patients, either personally or under their direct supervision;

36 (b) The practice of a licensed pharmacy when repackaging  
37 commercially available medication in small, reasonable quantities for  
38 a practitioner legally authorized to prescribe the medication for  
39 office use only;

1 (c) The distribution of a drug product that has been compounded  
2 by a licensed pharmacy to other appropriately licensed entities under  
3 common ownership or control of the facility in which the compounding  
4 takes place; or

5 (d) The delivery of finished and appropriately labeled compounded  
6 products dispensed pursuant to a valid prescription to alternate  
7 delivery locations, other than the patient's residence, when  
8 requested by the patient, or the prescriber to administer to the  
9 patient, or to another licensed pharmacy to dispense to the patient.

10 (22) "Manufacturer" means a person, corporation, or other entity  
11 engaged in the manufacture of drugs or devices.

12 (23) "Nonlegend" or "nonprescription" drugs means any drugs which  
13 may be lawfully sold without a prescription.

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

17 (25) "Pharmacist" means a person duly licensed by the commission  
18 to engage in the practice of pharmacy.

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

21 (27) "Poison" does not include any article or mixture covered by  
22 the Washington pesticide control act (chapter 15.58 RCW), as enacted  
23 or hereafter amended.

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

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

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

5 (31) "Secretary" means the secretary of health or the secretary's  
6 designee.

7 (32) "Shared pharmacy services" means a system that allows a  
8 participating pharmacist or pharmacy pursuant to a request from  
9 another participating pharmacist or pharmacy to process or fill a  
10 prescription or drug order, which may include but is not necessarily  
11 limited to preparing, packaging, labeling, data entry, compounding  
12 for specific patients, dispensing, performing drug utilization  
13 reviews, conducting claims adjudication, obtaining refill  
14 authorizations, reviewing therapeutic interventions, or reviewing  
15 chart orders.

16 (33) "Wholesaler" means a corporation, individual, or other  
17 entity which buys drugs or devices for resale and distribution to  
18 corporations, individuals, or entities other than consumers.

19 (34) "Directed plan of correction" means a plan devised by the  
20 commission that includes specific actions that must be taken to  
21 correct identified unresolved deficiencies with time frames to  
22 complete them.

23 (35) "Immediate jeopardy" means a situation in which a licensee's  
24 noncompliance with one or more statutory or regulatory requirements  
25 has placed the health and safety of individuals or animals at risk  
26 for serious injury, serious harm, serious impairment, or death.

27 (36) "License," "licensing," and "licensure" shall be deemed  
28 equivalent to the terms "approval," "credential," "certificate,"  
29 "certification," "permit," and "registration" and an "exemption"  
30 issued under chapter 69.50 RCW.

31 (37) "Plan of correction" means a proposal devised by the  
32 applicant or licensee that includes specific actions that must be  
33 taken to correct identified unresolved deficiencies with the time  
34 frames to complete them.

35 (38) "Statement of deficiency" means a written statement of the  
36 deficiencies prepared by the commission, or its designee, identifying  
37 one or more violations of law. The report clearly identifies the  
38 specific law or rule that has been violated along with a description  
39 of the reasons for noncompliance.

1        NEW SECTION.    **Sec. 31.**    A new section is added to chapter 18.64  
2    RCW to read as follows:

3        This section governs the denial of an application for a license  
4    or the suspension, revocation, or modification of a license issued by  
5    the commission. This section does not govern actions taken under  
6    chapter 18.130 RCW.

7        (1) The commission shall give written notice of the denial of an  
8    application for a license to the applicant or its agent. The form,  
9    contents, and service of the notice shall comply with this chapter  
10   and the procedural rules adopted by the commission.

11       (2) The commission shall give written notice of revocation,  
12   suspension, or modification of a license to the licensee or its  
13   agent. The form, contents, and service of the notice shall comply  
14   with this chapter and the procedural rules adopted by the commission.

15       (3) Except as otherwise provided in this chapter, revocation,  
16   suspension, or modification is effective 28 days after the licensee  
17   or the agent receives the notice.

18       (a) The commission may make the date the action is effective  
19   later than 28 days after receipt. If the commission does so, it shall  
20   state the effective date in the written notice given to the licensee  
21   or its agent.

22       (b) The commission may make the date the action is effective  
23   sooner than 28 days after receipt when necessary to protect the  
24   public health, safety, or welfare. When the commission does so, it  
25   shall state the effective date and the reasons supporting the  
26   effective date in the written notice given to the licensee or its  
27   agent.

28       (4) Except for licensees suspended for noncompliance with a child  
29   support order under chapter 74.20A RCW, a license applicant or  
30   licensee who is aggrieved by a commission denial, revocation,  
31   suspension, or modification has the right to an adjudicative  
32   proceeding. The proceeding is governed by the administrative  
33   procedure act, chapter 34.05 RCW. The form, contents, and service of  
34   the application for an adjudicative hearing must comply with this  
35   chapter and with the procedural rules adopted by the commission and  
36   must be served on and received by the commission within 28 days of  
37   the applicant or licensee receiving the notice.

38       (5) (a) If the commission gives a licensee 28 or more days' notice  
39   of revocation, suspension, or modification and the licensee files an  
40   appeal before its effective date, the commission shall not implement

1 the adverse action until the final order has been entered. The  
2 commission may implement part or all of the adverse action while the  
3 proceedings are pending if the appellant causes an unreasonable delay  
4 in the proceeding, if the circumstances change so that implementation  
5 is in the public interest, or for other good cause.

6 (b) If the commission gives a licensee less than 28 days' notice  
7 of revocation, suspension, or modification and the licensee timely  
8 files a sufficient appeal, the commission may implement the adverse  
9 action on the effective date stated in the notice. The commission may  
10 stay implementation of part or all of the adverse action while the  
11 proceedings are pending if staying implementation is in the public  
12 interest or for other good cause.

13 (6) The commission may accept the surrender of the licensee's  
14 license. A licensee whose surrender has been accepted may not  
15 petition for reinstatement of its surrendered license.

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

18 This section governs the assessment of a civil fine against a  
19 licensee issued by the commission. This section does not govern  
20 actions taken under chapter 18.130 RCW.

21 (1) The commission shall give written notice to the licensee or  
22 its agent against whom it assesses a civil fine. The form, contents,  
23 and service of the notice shall comply with this chapter and the  
24 procedural rules adopted by the commission.

25 (2) The civil fine is due and payable 28 days after receipt by  
26 the licensee or its agent. The commission may make the date the fine  
27 is due later than 28 days after receipt by the licensee or its agent.  
28 When the commission does so, it shall state the date the fine is due  
29 in the written notice given to the licensee against whom it assesses  
30 the fine.

31 (3) The licensee against whom the commission assesses a civil  
32 fine has the right to an adjudicative proceeding. The proceeding is  
33 governed by the administrative procedure act, chapter 34.05 RCW. The  
34 form, contents, and service of the application for an adjudicative  
35 hearing must comply with this chapter and the procedural rules  
36 adopted by the commission and must be served on and received by the  
37 commission within 28 days of the licensee receiving the notice.



1 NEW SECTION. **Sec. 33.** A new section is added to chapter 18.64

2 RCW to read as follows:

3 This section does not govern actions taken under chapter 18.130  
4 RCW.

5 (1) The commission is authorized to take any of the actions  
6 identified in this section against licenses, registrations, permits,  
7 or other credentials or approvals issued by the commission under this  
8 chapter and chapters 18.64A, 69.38, 69.41, 69.43, 69.45, and 69.50  
9 RCW in any case in which it finds the licensee has failed or refused  
10 to comply with any state or federal statute or administrative rule  
11 regulating the license in question including, but not limited to,  
12 Title 69 RCW, this chapter, chapter 18.64A RCW, and administrative  
13 rules adopted by the commission, except as otherwise limited in this  
14 section.

15 (a) When the commission determines a licensee has previously been  
16 subject to an enforcement action for the same or similar type of  
17 violation of the same or similar statute or rule, or has been given  
18 any previous statement of deficiency that included the same or  
19 similar type of violation of the same or similar statute or rule, or  
20 when the licensee failed to correct noncompliance with a statute or  
21 rule by a date established or agreed to by the commission, the  
22 commission may impose reasonable conditions on a license. Conditions  
23 may include correction within a specified amount of time, a directed  
24 plan of correction, training, or hiring a commission-approved  
25 consultant if the licensee cannot demonstrate to the commission that  
26 it has access to sufficient internal expertise. If the commission  
27 determines the violations constitute immediate jeopardy, the  
28 conditions may be imposed immediately in accordance with subsection  
29 (2)(b) of this section.

30 (b)(i) In accordance with the commission's authority under  
31 section 32 of this act, the commission may assess a civil fine of up  
32 to \$10,000 per violation, not to exceed a total fine of \$1,000,000,  
33 on a licensee when the commission determines the licensee has  
34 previously been subject to an enforcement action for the same or  
35 similar type of violation of the same or similar statute or rule, or  
36 has been given any previous statement of deficiency that included the  
37 same or similar type of violation of the same or similar statute or  
38 rule, or when a licensee failed to correct noncompliance with a  
39 statute or rule by a date established or agreed to by the commission.

1 (ii) Proceeds from these fines may only be used by the commission  
2 to provide training or technical assistance to licensees and to  
3 offset costs associated with licensing and enforcement.

4 (iii) The commission shall adopt in rules under this chapter to  
5 establish specific fine amounts in relation to:

6 (A) The severity of the noncompliance and at an adequate level to  
7 be a deterrent to future noncompliance; and

8 (B) The operation size of the licensee.

9 (iv) If a licensee is aggrieved by the commission's action of  
10 assessing civil fines, the licensee has the right to appeal under  
11 section 32 of this act.

12 (c) The commission may restrict the ability of a licensee to  
13 engage in a specific service related to a violation by imposing a  
14 limited stop service. This may only be done if the commission finds  
15 that noncompliance results in immediate jeopardy.

16 (i) Prior to imposing a limited stop service, the commission  
17 shall provide a licensee written notification upon identifying  
18 deficient practices or conditions that constitute an immediate  
19 jeopardy. The licensee shall have 24 hours from notification to  
20 develop and implement a commission-approved plan to correct the  
21 deficient practices or conditions that constitute an immediate  
22 jeopardy. If the deficient practices or conditions that constitute  
23 immediate jeopardy are not verified by the commission as having been  
24 corrected within the same 24-hour period, the commission may issue  
25 the limited stop service.

26 (ii) When the commission imposes a limited stop service, the  
27 licensee may not provide the services subject to the limited stop  
28 service, unless otherwise allowed by the commission, until the  
29 limited stop service order is terminated.

30 (iii) The commission shall conduct a follow-up inspection within  
31 five business days or within the time period requested by the  
32 licensee if more than five business days is needed to verify the  
33 violation necessitating the limited stop service has been corrected.

34 (iv) The limited stop service shall be terminated when:

35 (A) The commission verifies the violation necessitating the  
36 limited stop service has been corrected or the commission determines  
37 that the licensee has taken intermediate action to address the  
38 immediate jeopardy; and

39 (B) The licensee establishes the ability to maintain correction  
40 of the violation previously found deficient.

1 (d) The commission may deny an application, or suspend, revoke,  
2 or modify a license.

3 (2) (a) Except as otherwise provided, sections 31 and 32 of this  
4 act govern notices of actions taken by the commission under  
5 subsection (1) of this section and provides the right to an  
6 adjudicative proceeding. Adjudicative proceedings and hearings under  
7 this section are governed by the administrative procedure act,  
8 chapter 34.05 RCW.

9 (b) When the commission determines a licensee's noncompliance  
10 results in immediate jeopardy, the commission may make the imposition  
11 of conditions on a licensee, a limited stop service, or the  
12 suspension or modification of a license effective immediately upon  
13 receipt of the notice by the licensee, pending any adjudicative  
14 proceeding.

15 (i) When the commission makes the suspension or modification of a  
16 license or imposition of conditions on a license effective  
17 immediately, a licensee is entitled to a show cause hearing before a  
18 hearing panel of the commission within 14 days of making the request.  
19 The licensee must request the show cause hearing within 28 days of  
20 receipt of the notice. At the show cause hearing the commission has  
21 the burden of demonstrating that more probably than not there is an  
22 immediate jeopardy.

23 (ii) At the show cause hearing, the commission may consider the  
24 notice and documents supporting the immediate imposition of  
25 conditions on a licensee, or the suspension or modification of a  
26 license, and the licensee's response, and shall provide the parties  
27 with an opportunity to provide documentary evidence and written  
28 testimony, and to be represented by counsel. Prior to the show cause  
29 hearing, the commission shall provide the licensee with all  
30 documentation that supports the commission's immediate imposition of  
31 conditions on a licensee or suspension or modification of a license.

32 (iii) If the hearing panel of the commission determines there is  
33 no immediate jeopardy, the hearing panel of the commission may  
34 overturn the immediate suspension or modification of the license or  
35 immediate imposition of conditions.

36 (iv) If the hearing panel of the commission determines there is  
37 immediate jeopardy, the immediate suspension or modification of the  
38 license or immediate imposition of conditions shall remain in effect  
39 pending a full hearing.

1 (v) If the commission sustains the immediate suspension or  
2 modification of the license or immediate imposition of conditions,  
3 the licensee may request an expedited full hearing on the merits. A  
4 full hearing must be provided within 90 days of the licensee's  
5 request, unless otherwise stipulated by the parties.

6 (3) The commission may take action under subsection (1) of this  
7 section against a nonresident pharmacy for failure to comply with any  
8 requirement of RCW 18.64.350 through 18.64.400, conduct that caused  
9 injury to a resident of this state, or conduct that resulted in  
10 adverse action against the nonresident pharmacy by a federal agency  
11 or the regulatory or licensing agency in the state in which the  
12 nonresident pharmacy is located.

13 (4) When the commission determines an alleged violation, if true,  
14 would constitute an immediate jeopardy, and the licensee fails to  
15 cooperate with the commission's investigation of such an alleged  
16 violation, the commission may impose an immediate limited stop  
17 service, immediate imposition of conditions, or immediate suspension  
18 or modification of a license.

19 (a) When the commission imposes an immediate limited stop  
20 service, immediate imposition of conditions, or immediate suspension  
21 or modification of a license for failure to cooperate, a licensee is  
22 entitled to a show cause hearing before a presiding officer within 14  
23 days of making the request. The licensee must request the show cause  
24 hearing within 28 days of receipt of the notice of an immediate  
25 limited stop service, immediate imposition of conditions, or  
26 immediate suspension or modification of a license for failure to  
27 cooperate. At the show cause hearing the commission has the burden of  
28 demonstrating that more probably than not the alleged violation, if  
29 true, would constitute an immediate jeopardy and the licensee failed  
30 to cooperate with the commission's investigation.

31 (b) At the show cause hearing, the presiding officer may consider  
32 the notice and documents supporting the immediate limited stop  
33 service, immediate imposition of conditions, or immediate suspension  
34 or modification of a license for failure to cooperate, and the  
35 licensee's response and shall provide the parties with an opportunity  
36 to provide documentary evidence and written testimony, and to be  
37 represented by counsel. Prior to the show cause hearing, the  
38 commission shall provide the licensee with all documentation that  
39 supports the commission's immediate action for failure to cooperate.

1 (c) If the presiding officer determines the alleged violation, if  
2 true, does not constitute an immediate jeopardy or determines that  
3 the licensee cooperated with the commission's investigation, the  
4 presiding officer may overturn the immediate action for failure to  
5 cooperate.

6 (d) If the presiding officer determines the allegation, if true,  
7 would constitute an immediate jeopardy and the licensee failed to  
8 cooperate with the commission's investigation, the immediate action  
9 for failure to cooperate shall remain in effect pending a full  
10 hearing.

11 (e) If the presiding officer sustains the immediate action for  
12 failure to cooperate, the licensee may request an expedited full  
13 hearing on the merits of the commission's action. A full hearing must  
14 be provided within 90 days of the licensee's request.

15 NEW SECTION. **Sec. 34.** A new section is added to chapter 18.64  
16 RCW to read as follows:

17 This section does not govern actions taken under chapter 18.130  
18 RCW.

19 (1) A licensee whose license has been suspended under this  
20 chapter may petition the commission for reinstatement after an  
21 interval as determined by the commission in the order. The commission  
22 shall hold hearings on the petition. The commission may deny the  
23 petition or may order reinstatement of the licensee's license. The  
24 commission may impose terms and conditions in the order of  
25 reinstatement.

26 (2) A licensee whose license has been suspended for noncompliance  
27 with a support order or visitation order under RCW 74.20A.320 may  
28 petition for reinstatement at any time by providing the commission a  
29 release issued by the department of social and health services  
30 stating that the person is in compliance with the order. If the  
31 person has continued to meet all other requirements for reinstatement  
32 during the suspension, the commission shall automatically reissue the  
33 person's license upon receipt of the release, and payment of a  
34 reinstatement fee, if any.

35 NEW SECTION. **Sec. 35.** A new section is added to chapter 18.64  
36 RCW to read as follows:

1 The uniform disciplinary act, chapter 18.130 RCW, governs  
2 unlicensed practice of persons required to obtain a license under  
3 this chapter.

4 **Sec. 36.** RCW 18.64.047 and 2013 c 19 s 10 are each amended to  
5 read as follows:

6 (1) Any itinerant vendor or any peddler of any nonprescription  
7 drug or preparation for the treatment of disease or injury, shall pay  
8 a registration fee determined by the secretary on a date to be  
9 determined by the secretary as provided in RCW 43.70.250 and  
10 43.70.280. The department may issue a registration to such vendor on  
11 an approved application made to the department.

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

17 (3) In event the registration fee remains unpaid on the date due,  
18 no renewal or new registration shall be issued except upon compliance  
19 with administrative procedures, administrative requirements, and fees  
20 determined as provided in RCW 43.70.250 and 43.70.280. This  
21 registration shall not authorize the sale of legend drugs or  
22 controlled substances.

23 (4) An itinerant vendor may purchase products containing any  
24 detectable quantity of ephedrine, pseudoephedrine, or  
25 phenylpropanolamine, or their salts, isomers, or salts of isomers  
26 only from a wholesaler licensed by the department under RCW 18.64.046  
27 or from a manufacturer licensed by the department under RCW  
28 18.64.045. The commission shall issue a warning to an itinerant  
29 vendor who violates this subsection, and may suspend or revoke the  
30 registration of the vendor for a subsequent violation.

31 (5) An itinerant vendor who has purchased products containing any  
32 detectable quantity of ephedrine, pseudoephedrine, or  
33 phenylpropanolamine, or their salts, isomers, or salts of isomers, in  
34 a suspicious transaction as defined in RCW 69.43.035, is subject to  
35 the following requirements:

36 (a) The itinerant vendor may not sell any quantity of ephedrine,  
37 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or  
38 salts of isomers, if the total monthly sales of these products exceed  
39 (~~ten~~) 10 percent of the vendor's total prior monthly sales of

1 nonprescription drugs in March through October. In November through  
2 February, the vendor may not sell any quantity of ephedrine,  
3 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or  
4 salts of isomers, if the total monthly sales of these products exceed  
5 (~~twenty~~) 20 percent of the vendor's total prior monthly sales of  
6 nonprescription drugs. For purposes of this section, "monthly sales"  
7 means total dollars paid by buyers. (~~The commission may suspend or~~  
8 ~~revoke the registration of an itinerant vendor who violates this~~  
9 ~~subsection.~~)

10 (b) The itinerant vendor shall maintain inventory records of the  
11 receipt and disposition of nonprescription drugs, utilizing existing  
12 inventory controls if an auditor or investigator can determine  
13 compliance with (a) of this subsection, and otherwise in the form and  
14 manner required by the commission. The records must be available for  
15 inspection by the commission or any law enforcement agency and must  
16 be maintained for two years. The commission may suspend or revoke the  
17 registration of an itinerant vendor who violates this subsection. For  
18 purposes of this subsection, "disposition" means the return of  
19 product to the wholesaler or distributor.

20 **Sec. 37.** RCW 18.64.165 and 2016 c 81 s 10 are each amended to  
21 read as follows:

22 (~~The commission shall have the power to refuse, suspend, or~~  
23 ~~revoke the license of any manufacturer, wholesaler, pharmacy,~~  
24 ~~shopkeeper, itinerant vendor, peddler, poison distributor, health~~  
25 ~~care entity, or precursor chemical distributor~~) In addition to any  
26 other grounds, the commission may take action against a license  
27 issued under this chapter and chapters 18.64A, 69.38, 69.41, 69.43,  
28 69.45, and 69.50 RCW, except nonresident pharmacies, upon proof that:

29 (1) The license was procured through fraud, misrepresentation, or  
30 deceit;

31 (2) Except as provided in RCW 9.97.020, the licensee has violated  
32 or has permitted any employee to violate any of the laws of this  
33 state or the United States relating to drugs, controlled substances,  
34 cosmetics, or nonprescription drugs, or has violated any of the rules  
35 and regulations of the commission or has been convicted of a felony.

36 **Sec. 38.** RCW 18.64A.020 and 2013 c 19 s 33 are each amended to  
37 read as follows:

1 (1) (a) The commission shall adopt, in accordance with chapter  
2 34.05 RCW, rules fixing the classification and qualifications and the  
3 educational and training requirements for persons who may be employed  
4 as pharmacy technicians or who may be enrolled in any pharmacy  
5 technician training program. Such rules shall provide that:

6 (i) Licensed pharmacists shall supervise the training of pharmacy  
7 technicians;

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

11 (iii) Pharmacy technicians shall complete continuing education  
12 requirements established in rule by the commission.

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

20 (2) The commission may disapprove or revoke approval of any  
21 training program for failure to conform to commission rules. In the  
22 case of the disapproval or revocation of approval of a training  
23 program by the commission, a hearing shall be conducted in accordance  
24 with ((RCW 18.64.160)) section 31 of this act, and appeal may be  
25 taken in accordance with the administrative procedure act, chapter  
26 34.05 RCW.

27 **Sec. 39.** RCW 18.64A.060 and 2013 c 19 s 38 are each amended to  
28 read as follows:

29 No pharmacy licensed in this state shall utilize the services of  
30 pharmacy ancillary personnel without approval of the commission.

31 Any pharmacy licensed in this state may apply to the commission  
32 for permission to use the services of pharmacy ancillary personnel.  
33 The application shall be accompanied by a fee and shall comply with  
34 administrative procedures and administrative requirements set  
35 pursuant to RCW 43.70.250 and 43.70.280, shall detail the manner and  
36 extent to which the pharmacy ancillary personnel would be used and  
37 supervised, and shall provide other information in such form as the  
38 secretary may require.



1 The commission may approve or reject such applications. In  
2 addition, the commission may modify the proposed utilization of  
3 pharmacy ancillary personnel and approve the application as modified.  
4 Whenever it appears to the commission that pharmacy ancillary  
5 personnel are being utilized in a manner inconsistent with the  
6 approval granted, the commission may withdraw such approval. In the  
7 event a hearing is requested upon the rejection of an application, or  
8 upon the withdrawal of approval, a hearing shall be conducted in  
9 accordance with (~~chapter 18.64 RCW, as now or hereafter amended,~~)  
10 section 31 of this act and appeal may be taken in accordance with the  
11 administrative procedure act, chapter 34.05 RCW.

12 NEW SECTION. **Sec. 40.** A new section is added to chapter 69.38  
13 RCW to read as follows:

14 Chapter 18.64 RCW governs the denial of licenses and the  
15 discipline of persons licensed under this chapter. The uniform  
16 disciplinary act, chapter 18.130 RCW, governs unlicensed practice of  
17 persons required to obtain a license under this chapter.

18 **Sec. 41.** RCW 69.45.080 and 2013 c 19 s 84 are each amended to  
19 read as follows:

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

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

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

30 (~~(4))~~) Chapter 18.64 RCW governs the denial of licenses and the  
31 discipline of persons registered under this chapter.

32 (3) Specific drug samples which are distributed in this state in  
33 violation of this chapter, following notification by the commission,  
34 shall be subject to seizure following the procedures set out in RCW  
35 69.41.060.

36 NEW SECTION. **Sec. 42.** A new section is added to chapter 69.45  
37 RCW to read as follows:

1 The uniform disciplinary act, chapter 18.130 RCW, governs  
2 unlicensed practice of persons required to obtain a registration  
3 under this chapter.

4 **Sec. 43.** RCW 69.43.100 and 2013 c 19 s 74 are each amended to  
5 read as follows:

6 ~~((The pharmacy quality assurance commission shall have the power  
7 to refuse, suspend, or revoke the permit of any manufacturer or  
8 wholesaler))~~ In addition to any other grounds, the pharmacy quality  
9 assurance commission may take action against a permit issued under  
10 this chapter upon proof that:

11 (1) The permit was procured through fraud, misrepresentation, or  
12 deceit;

13 (2) The permittee has violated or has permitted any employee to  
14 violate any of the laws of this state relating to drugs, controlled  
15 substances, cosmetics, or nonprescription drugs, or has violated any  
16 of the rules and regulations of the pharmacy quality assurance  
17 commission.

18 **Sec. 44.** RCW 69.43.140 and 2013 c 19 s 78 are each amended to  
19 read as follows:

20 (1) ~~((In addition to the other penalties provided for in this  
21 chapter or in chapter 18.64 RCW, the pharmacy quality assurance  
22 commission may impose a civil penalty, not to exceed ten thousand  
23 dollars for each violation, on any licensee or registrant who has  
24 failed to comply with this chapter or the rules adopted under this  
25 chapter. In the case of a continuing violation, every day the  
26 violation continues shall be considered a separate violation))~~  
27 Chapter 18.64 RCW governs the denial of permits and the discipline of  
28 permits issued under this chapter. The uniform disciplinary act,  
29 chapter 18.130 RCW, governs unlicensed practice of persons required  
30 to obtain a permit under this chapter.

31 (2) The pharmacy quality assurance commission may waive ~~((the  
32 suspension or revocation of a license or registration))~~ action taken  
33 under chapter 18.64 RCW against a permit issued under this chapter  
34 ~~((18.64 RCW, or waive any civil penalty under this chapter,))~~ if the  
35 ~~((licensee or registrant))~~ permittee establishes that he or she acted  
36 in good faith to prevent violations of this chapter, and the  
37 violation occurred despite the licensee's or registrant's exercise of  
38 due diligence. In making such a determination, the pharmacy quality

1 assurance commission may consider evidence that an employer trained  
2 employees on how to sell, transfer, or otherwise furnish substances  
3 specified in RCW 69.43.010(1) in accordance with applicable laws.

4 **Sec. 45.** RCW 69.50.302 and 2013 c 19 s 98 are each amended to  
5 read as follows:

6 ((~~(a)~~—[(1)])) (1) Every person who manufactures, distributes, or  
7 dispenses any controlled substance within this state or who proposes  
8 to engage in the manufacture, distribution, or dispensing of any  
9 controlled substance within this state, shall obtain annually a  
10 registration issued by the ((~~department~~)) commission in accordance  
11 with the commission's rules.

12 ((~~(b)~~—[(2)])) (2) A person registered by the ((~~department~~))  
13 commission under this chapter to manufacture, distribute, dispense,  
14 or conduct research with controlled substances may possess,  
15 manufacture, distribute, dispense, or conduct research with those  
16 substances to the extent authorized by the registration and in  
17 conformity with this Article.

18 ((~~(c)~~—[(3)])) (3) The following persons need not register and may  
19 lawfully possess controlled substances under this chapter:

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

26 ((~~(2)~~—[(b)])) (b) A common or contract carrier or warehouse  
27 operator, or an employee thereof, whose possession of any controlled  
28 substance is in the usual course of business or employment;

29 ((~~(3)~~—[(c)])) (c) An ultimate user or a person in possession of  
30 any controlled substance pursuant to a lawful order of a practitioner  
31 or in lawful possession of a substance included in Schedule V.

32 ((~~(d)~~—[(4)])) (4) The commission may waive by rule the  
33 requirement for registration of certain manufacturers, distributors,  
34 or dispensers upon finding it consistent with the public health and  
35 safety. Personal practitioners licensed or registered in the state of  
36 Washington under the respective professional licensing acts shall not  
37 be required to be registered under this chapter unless the specific  
38 exemption is denied pursuant to ((~~RCW 69.50.305~~)) sections 31 and 33  
39 of this act for violation of any provisions of this chapter.

1       (~~(e)~~—~~(5)~~) (5) A separate registration is required at each  
2 principal place of business or professional practice where the  
3 applicant manufactures, distributes, or dispenses controlled  
4 substances.

5       (~~(f)~~—~~(6)~~) (6) The department, at the direction of the  
6 commission, may inspect the establishment of a registrant or  
7 applicant for registration in accordance with rules adopted by the  
8 commission.

9       **Sec. 46.** RCW 69.50.303 and 2013 c 19 s 99 are each amended to  
10 read as follows:

11       (~~(a)~~—~~(1)~~) (1) The (~~department~~) commission shall register an  
12 applicant to manufacture (~~or~~), distribute, dispense, or conduct  
13 research with controlled substances included in RCW 69.50.204,  
14 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless the commission  
15 determines that the issuance of that registration would be  
16 inconsistent with the public interest. In determining the public  
17 interest, the commission shall consider the following factors:

18       (~~(1)~~—~~(a)~~) (a) maintenance of effective controls against  
19 diversion of controlled substances into other than legitimate  
20 medical, scientific, research, or industrial channels;

21       (~~(2)~~—~~(b)~~) (b) compliance with applicable state and local law;

22       (~~(3)~~—~~(c)~~) (c) promotion of technical advances in the art of  
23 manufacturing controlled substances and the development of new  
24 substances;

25       (~~(4)~~—~~(d)~~) (d) any convictions of the applicant under any laws  
26 of another country or federal or state laws relating to any  
27 controlled substance;

28       (~~(5)~~—~~(e)~~) (e) past experience in the manufacture or  
29 distribution of controlled substances, and the existence in the  
30 applicant's establishment of effective controls against diversion of  
31 controlled substances into other than legitimate medical, scientific,  
32 research, or industrial channels;

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

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

38       (~~(8)~~—~~(h)~~) (h) any other factors relevant to and consistent  
39 with the public health and safety.

1       (~~(b)~~[(2)]) (2) Registration under subsection (~~(a)~~[(1)]) (1)  
2 of this section does not entitle a registrant to manufacture or  
3 distribute controlled substances included in Schedule I or II other  
4 than those specified in the registration.

5       (~~(c)~~[(3)]) (3) Practitioners must be registered, or exempted  
6 under RCW 69.50.302(~~(d)~~[(4)]) (4), to dispense any controlled  
7 substances or to conduct research with controlled substances included  
8 in Schedules II through V if they are authorized to dispense or  
9 conduct research under the law of this state. The commission need not  
10 require separate registration under this Article for practitioners  
11 engaging in research with nonnarcotic substances included in  
12 Schedules II through V where the registrant is already registered  
13 under this Article in another capacity. Practitioners registered  
14 under federal law to conduct research with substances included in  
15 Schedule I may conduct research with substances included in Schedule  
16 I within this state upon furnishing the commission evidence of that  
17 federal registration.

18       (~~(d)~~[(4)]) (4) A manufacturer or distributor registered under  
19 the federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq.,  
20 may submit a copy of the federal application as an application for  
21 registration as a manufacturer or distributor under this section. The  
22 commission may require a manufacturer or distributor to submit  
23 information in addition to the application for registration under the  
24 federal act.

25       **Sec. 47.** RCW 69.50.304 and 2013 c 19 s 100 are each amended to  
26 read as follows:

27       (~~(a)~~[(1)-A]) (1) This chapter and chapter 18.64 RCW govern the  
28 denial of registrations and the discipline of registrations issued  
29 under RCW 69.50.303. The uniform disciplinary act, chapter 18.130  
30 RCW, governs unlicensed practice of persons required to obtain a  
31 registration under this chapter.

32       (2) In addition to any other grounds, the commission may take  
33 action against the registration, or exemption from registration,  
34 under RCW 69.50.303 to manufacture, distribute, (~~(e)~~) dispense, or  
35 conduct research with a controlled substance (~~may be suspended or~~  
36 revoked by the commission)) upon finding that the registrant has:

37       (~~(1)~~[(a)]) (a) furnished false or fraudulent material  
38 information in any application filed under this chapter;

1       (~~(2)~~—~~(b)~~)) (b) been convicted of a felony under any state or  
2 federal law relating to any controlled substance;

3       (~~(3)~~—~~(c)~~)) (c) had the registrant's federal registration  
4 suspended or revoked and is no longer authorized by federal law to  
5 manufacture, distribute, ~~((e))~~ dispense, or conduct research with  
6 controlled substances; or

7       (~~(4)~~—~~(d)~~)) (d) committed acts that would render registration  
8 under RCW 69.50.303 inconsistent with the public interest as  
9 determined under that section.

10       (~~(b)~~—~~(2)~~)) (3) The commission may limit revocation or  
11 suspension of a registration to the particular controlled substance  
12 or schedule of controlled substances, with respect to which grounds  
13 for revocation or suspension exist.

14       (~~(c)~~—~~(3)~~)) (4) If the commission suspends or revokes a  
15 registration, all controlled substances owned or possessed by the  
16 registrant at the time of suspension or the effective date of the  
17 revocation order may be placed under seal. No disposition may be made  
18 of substances under seal until the time for taking an appeal has  
19 elapsed or until all appeals have been concluded unless a court, upon  
20 application, orders the sale of perishable substances and the deposit  
21 of the proceeds of the sale with the court. Upon a revocation order  
22 becoming final, all controlled substances may be forfeited to the  
23 state.

24       (~~(d)~~—~~(4)~~)) (5) The ~~((department))~~ commission may seize or  
25 place under seal any controlled substance owned or possessed by a  
26 registrant whose registration has expired or who has ceased to  
27 practice or do business in the manner contemplated by the  
28 registration. The controlled substance must be held for the benefit  
29 of the registrant or the registrant's successor in interest. The  
30 ~~((department))~~ commission shall notify a registrant, or the  
31 registrant's successor in interest, who has any controlled substance  
32 seized or placed under seal, of the procedures to be followed to  
33 secure the return of the controlled substance and the conditions  
34 under which it will be returned. The ~~((department))~~ commission may  
35 not dispose of any controlled substance seized or placed under seal  
36 under this subsection until the expiration of ~~((one hundred eighty))~~  
37 180 days after the controlled substance was seized or placed under  
38 seal. The costs incurred by the ~~((department))~~ commission in seizing,  
39 placing under seal, maintaining custody, and disposing of any  
40 controlled substance under this subsection may be recovered from the

1 registrant, any proceeds obtained from the disposition of the  
2 controlled substance, or from both. Any balance remaining after the  
3 costs have been recovered from the proceeds of any disposition must  
4 be delivered to the registrant or the registrant's successor in  
5 interest.

6 ~~((e)–[(5)])~~ (6) The ~~((department))~~ commission shall promptly  
7 notify the drug enforcement administration of all orders restricting,  
8 suspending, or revoking registration and all forfeitures of  
9 controlled substances.

10 **Sec. 48.** RCW 69.50.310 and 2013 c 19 s 104 are each amended to  
11 read as follows:

12 On and after September 21, 1977, a humane society and animal  
13 control agency may apply to the ~~((department))~~ commission for  
14 registration pursuant to the applicable provisions of this chapter  
15 for the sole purpose of being authorized to purchase, possess, and  
16 administer sodium pentobarbital to euthanize injured, sick, homeless,  
17 or unwanted domestic pets and animals. Any agency so registered shall  
18 not permit a person to administer sodium pentobarbital unless such  
19 person has demonstrated adequate knowledge of the potential hazards  
20 and proper techniques to be used in administering this drug.

21 The ~~((department))~~ commission may issue a limited registration to  
22 carry out the provisions of this section. ~~((The commission shall  
23 promulgate such rules as it deems necessary to insure strict  
24 compliance with the provisions of this section. The commission may  
25 suspend or revoke registration upon determination that the person  
26 administering sodium pentobarbital has not demonstrated adequate  
27 knowledge as herein provided. This authority is granted in addition  
28 to any other power to suspend or revoke registration as provided by  
29 law.))~~ Chapter 18.64 RCW governs the denial of licenses and the  
30 discipline of registrations issued under this chapter. The uniform  
31 disciplinary act, chapter 18.130 RCW, governs unlicensed practice of  
32 persons required to obtain a registration under this chapter.

33 **Sec. 49.** RCW 69.50.320 and 2013 c 19 s 106 are each amended to  
34 read as follows:

35 The department of fish and wildlife may apply to the ~~((department  
36 of health))~~ commission for registration pursuant to the applicable  
37 provisions of this chapter to purchase, possess, and administer  
38 controlled substances for use in chemical capture programs. The

1 department of fish and wildlife must not permit a person to  
2 administer controlled substances unless the person has demonstrated  
3 adequate knowledge of the potential hazards and proper techniques to  
4 be used in administering controlled substances.

5 The (~~department of health~~) commission may issue a limited  
6 registration to carry out the provisions of this section. The  
7 commission may adopt rules to ensure strict compliance with the  
8 provisions of this section. The commission, in consultation with the  
9 department of fish and wildlife, must by rule add or remove  
10 additional controlled substances for use in chemical capture  
11 programs. (~~The~~) Chapter 18.64 RCW governs the denial of licenses  
12 and the discipline of registrations issued under this chapter. The  
13 uniform disciplinary act, chapter 18.130 RCW, governs unlicensed  
14 practice of persons required to obtain a registration under this  
15 chapter. In addition to any other grounds, the commission (~~shall~~)  
16 may suspend or revoke a registration issued under this chapter upon  
17 determination that the person administering controlled substances has  
18 not demonstrated adequate knowledge as required by this section.  
19 (~~This authority is granted in addition to any other power to suspend~~  
20 ~~or revoke registration as provided by law.~~)

21 **Sec. 50.** RCW 69.41.080 and 2013 c 19 s 57 are each amended to  
22 read as follows:

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

37 The commission shall promulgate rules to regulate the purchase,  
38 possession, and administration of legend drugs by such societies and  
39 agencies and to insure strict compliance with the provisions of this



1 section. Such rules shall require that the storage, inventory  
2 control, administration, and recordkeeping for approved legend drugs  
3 conform to the standards adopted by the commission under chapter  
4 69.50 RCW to regulate the use of controlled substances by such  
5 societies and agencies. ~~((The))~~ Chapter 18.64 RCW governs the denial  
6 of licenses and the discipline of registrations issued under chapter  
7 69.50 RCW. The uniform disciplinary act, chapter 18.130 RCW, governs  
8 unlicensed practice of persons required to obtain a registration  
9 under this chapter. In addition to any other grounds, the commission  
10 may suspend or revoke a registration issued under chapter 69.50 RCW  
11 upon a determination by the commission that the person administering  
12 legend drugs has not demonstrated adequate knowledge as herein  
13 provided. ~~((This authority is granted in addition to any other power~~  
14 ~~to suspend or revoke a registration as provided by law.))~~

15 NEW SECTION. **Sec. 51.** The following acts or parts of acts are  
16 each repealed:

17 (1) RCW 18.64.200 (Refusal, suspension, and revocation of other  
18 licenses—Appeal procedure) and 2013 c 19 s 15, 1963 c 38 s 11, & 1909  
19 c 213 s 11;

20 (2) RCW 18.64.390 (Nonresident pharmacies—Violations—Penalties)  
21 and 2013 c 19 s 23 & 1991 c 87 s 5; and

22 (3) RCW 69.50.305 (Procedure for denial, suspension, or  
23 revocation of registration) and 2013 c 19 s 101 & 1971 ex.s. c 308 s  
24 69.50.305."

**SSB 5271 - S AMD 485**

By Senator Cleveland

**ADOPTED 01/24/2024**

25 On page 1, line 2 of the title, after "tools;" strike the  
26 remainder of the title and insert "amending RCW 18.46.010, 18.46.050,  
27 18.46.130, 70.42.010, 70.42.130, 70.42.180, 70.127.010, 70.127.170,  
28 70.127.213, 70.230.010, 70.230.070, 71.12.710, 71.12.500, 70.38.025,  
29 70.38.111, 70.38.260, 71.24.037, 70.170.020, 18.64.005, 18.64.011,  
30 18.64.047, 18.64.165, 18.64A.020, 18.64A.060, 69.45.080, 69.43.100,  
31 69.43.140, 69.50.302, 69.50.303, 69.50.304, 69.50.310, 69.50.320, and  
32 69.41.080; reenacting and amending RCW 71.12.455 and 71.24.025;  
33 adding a new section to chapter 18.46 RCW; adding new sections to

1 chapter 70.42 RCW; adding new sections to chapter 70.127 RCW; adding  
2 a new section to chapter 70.230 RCW; adding a new section to chapter  
3 71.12 RCW; adding a new section to chapter 71.24 RCW; adding new  
4 sections to chapter 18.64 RCW; adding a new section to chapter 69.38  
5 RCW; adding a new section to chapter 69.45 RCW; repealing RCW  
6 18.64.200, 18.64.390, and 69.50.305; and prescribing penalties."

EFFECT: Makes technical corrections in sections 25 and 26 to amend the most recent versions of RCWs 71.24.025 and 71.24.037.

--- END ---