

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5271

68th Legislature
2024 Regular Session

Passed by the Senate January 24, 2024
Yeas 29 Nays 20

President of the Senate

Passed by the House February 29, 2024
Yeas 61 Nays 35

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5271** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5271

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Senate Health & Long Term Care (originally sponsored by Senators Cleveland, Robinson, Kuderer, Nobles, Wellman, and C. Wilson; by request of Department of Health)

READ FIRST TIME 02/08/23.

1 AN ACT Relating to protecting patients in facilities regulated by
2 the department of health by establishing uniform enforcement tools;
3 amending RCW 18.46.010, 18.46.050, 18.46.130, 70.42.010, 70.42.130,
4 70.42.180, 70.127.010, 70.127.170, 70.127.213, 70.230.010,
5 70.230.070, 71.12.710, 71.12.500, 70.38.025, 70.38.111, 70.38.260,
6 71.24.037, 70.170.020, 18.64.005, 18.64.011, 18.64.047, 18.64.165,
7 18.64A.020, 18.64A.060, 69.45.080, 69.43.100, 69.43.140, 69.50.302,
8 69.50.303, 69.50.304, 69.50.310, 69.50.320, and 69.41.080; reenacting
9 and amending RCW 71.12.455 and 71.24.025; adding a new section to
10 chapter 18.46 RCW; adding new sections to chapter 70.42 RCW; adding
11 new sections to chapter 70.127 RCW; adding a new section to chapter
12 70.230 RCW; adding a new section to chapter 71.12 RCW; adding a new
13 section to chapter 71.24 RCW; adding new sections to chapter 18.64
14 RCW; adding a new section to chapter 69.38 RCW; adding a new section
15 to chapter 69.45 RCW; repealing RCW 18.64.200, 18.64.390, and
16 69.50.305; and prescribing penalties.

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

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

20 (1) "Birthing center" or "childbirth center" means any health
21 facility, not part of a hospital or in a hospital, that provides

1 facilities and staff to support a birth service to low-risk maternity
2 clients: PROVIDED, HOWEVER, That this chapter shall not apply to any
3 hospital approved by the American College of Surgeons, American
4 Osteopathic Association, or its successor.

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

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

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

15 ((4)) (5) "Person" means any individual, firm, partnership,
16 corporation, company, association, or joint stock association, and
17 the legal successor thereof.

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

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

24 ~~(2) The department shall immediately suspend the license of a~~
25 ~~person who has been certified pursuant to RCW 74.20A.320 by the~~
26 ~~department of social and health services as a person who is not in~~
27 ~~compliance with a support order or a residential or visitation order.~~
28 ~~If the person has continued to meet all other requirements for~~
29 ~~reinstatement during the suspension, reissuance of the license shall~~
30 ~~be automatic upon the department's receipt of a release issued by the~~
31 ~~department of social and health services stating that the person is~~
32 ~~in compliance with the order.~~

33 ~~RCW 43.70.115 governs notice of a license denial, revocation,~~
34 ~~suspension, or modification and provides the right to an adjudicative~~
35 ~~proceeding but shall not apply to actions taken under subsection (2)~~
36 ~~of this section)) In any case in which the department finds that a
37 birthing center has failed or refused to comply with the requirements
38 of this chapter, the standards or rules adopted under this chapter,
39 or other applicable state or federal statutes or rules regulating~~

1 birthing centers, the department may take one or more of the actions
2 identified in this section, except as otherwise limited in this
3 section.

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

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

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

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

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

39 (c) The department may suspend a specific category or categories
40 of services or care or birthing rooms within the birthing center as

1 related to the violation by imposing a limited stop service. This may
2 only be done if the department finds that noncompliance results in
3 immediate jeopardy.

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

14 (ii) When the department imposes a limited stop service, the
15 birthing center may not provide the services in the category or
16 categories subject to the limited stop service to any new or existing
17 patients, unless otherwise allowed by the department, until the
18 limited stop service is terminated.

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

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

25 (A) The department verifies the violation necessitating the
26 limited stop service has been corrected or the department determines
27 that the birthing center has taken intermediate action to address the
28 immediate jeopardy; and

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

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

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

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

6 (ii) When the department imposes a stop placement, the birthing
7 center may not admit any new patients until the stop placement is
8 terminated.

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

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

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

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

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

22 (2) Except as otherwise provided, RCW 43.70.115 governs notice of
23 actions taken by the department under subsection (1) of this section
24 and provides the right to an adjudicative proceeding. Adjudicative
25 proceedings and hearings under this section are governed by the
26 administrative procedure act, chapter 34.05 RCW. The application for
27 an adjudicative proceeding must be in writing, state the basis for
28 contesting the adverse action, include a copy of the department's
29 notice, be served on and received by the department within 28 days of
30 the birthing center's receipt of the adverse notice, and be served in
31 a manner that shows proof of receipt.

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

37 (a) When the department makes the suspension of a license or
38 imposition of conditions on a license effective immediately, a
39 licensee is entitled to a show cause hearing before a presiding
40 officer within 14 days of making the request. The licensee must

1 request the show cause hearing within 28 days of receipt of the
2 notice of immediate suspension or immediate imposition of conditions.
3 At the show cause hearing the department has the burden of
4 demonstrating that more probably than not there is an immediate
5 jeopardy.

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

14 (c) If the presiding officer determines there is no immediate
15 jeopardy, the presiding officer may overturn the immediate suspension
16 or immediate imposition of conditions.

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

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

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

31 (a) When the department imposes an immediate stop placement,
32 immediate limited stop service, immediate imposition of conditions,
33 or immediate suspension for failure to cooperate, a licensee is
34 entitled to a show cause hearing before a presiding officer within 14
35 days of making the request. The licensee must request the show cause
36 hearing within 28 days of receipt of the notice of an immediate stop
37 placement, immediate limited stop service, immediate imposition of
38 conditions, or immediate suspension for failure to cooperate. At the
39 show cause hearing the department has the burden of demonstrating
40 that more probably than not the alleged violation, if true, would

1 constitute an immediate jeopardy and the licensee failed to cooperate
2 with the department's investigation.

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

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

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

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

26 NEW SECTION. Sec. 3. A new section is added to chapter 18.46
27 RCW to read as follows:

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

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.

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

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

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

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

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

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

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

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

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

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

16 (1) Notwithstanding the existence or use of any other remedy, the
17 department may in the manner provided by law, upon the advice of the
18 attorney general who shall represent the department in all
19 proceedings, maintain an action in the name of the state for an
20 injunction or other process against any person to restrain or prevent
21 the ~~advertisement~~, operation ((~~o~~)), maintenance, management, or
22 opening of a birthing center not licensed under this chapter.

23 (2) The injunction shall not relieve the person operating a birth
24 center without a license from criminal prosecution, or the imposition
25 of a civil fine under section 3 of this act, but the remedy by
26 injunction shall be in addition to any criminal liability or civil
27 fine. A person that violates an injunction issued under this chapter
28 shall pay a civil penalty, as determined by the court, of not more
29 than \$25,000, which shall be deposited in the department's local fee
30 account. For the purpose of this section, the superior court issuing
31 any injunction shall retain jurisdiction and the cause shall be
32 continued, and in such cases the attorney general acting in the name
33 of the state may petition for the recovery of civil penalties. All
34 finances, forfeitures, and penalties collected or assessed by a court
35 because of a violation of RCW 18.46.020 shall be deposited in the
36 department's local fee account.

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

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

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

5 (2) "Designated test site supervisor" means the available
6 individual who is responsible for the technical functions of the test
7 site and who meets the department's qualifications set out in rule by
8 the department.

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

14 (4) "Person" means any individual, or any public or private
15 organization, agent, agency, corporation, firm, association,
16 partnership, or business.

17 ~~((4))~~ (5) "Proficiency testing program" means an external
18 service approved by the department which provides samples to evaluate
19 the accuracy, reliability and performance of the tests at each test
20 site.

21 ~~((5))~~ (6) "Quality assurance" means a comprehensive set of
22 policies, procedures, and practices to assure that a test site's
23 results are accurate and reliable. Quality assurance means a total
24 program of internal and external quality control, equipment
25 preventative maintenance, calibration, recordkeeping, and proficiency
26 testing evaluation, including a written quality assurance plan.

27 ~~((6))~~ (7) "Quality control" means internal written procedures
28 and day-to-day analysis of laboratory reference materials at each
29 test site to insure precision and accuracy of test methodology,
30 equipment, and results.

31 ~~((7))~~ (8) "Test" means any examination or procedure conducted
32 on a sample taken from the human body, including screening.

33 ~~((8))~~ (9) "Test site" means any facility or site, public or
34 private, which analyzes materials derived from the human body for the
35 purposes of health care, treatment, or screening. A test site does
36 not mean a facility or site, including a residence, where a test
37 approved for home use by the federal food and drug administration is
38 used by an individual to test himself or herself without direct
39 supervision or guidance by another and where this test is not part of
40 a commercial transaction.

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

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

7 (1) Fails or refuses to comply with the requirements of this
8 chapter (~~(or)~~), the rules or standards adopted under this chapter, or
9 other applicable state or federal statutes or rules regulating
10 medical test sites;

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

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

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

18 (5) Willfully prevented or interfered with preservation of
19 evidence of a known violation of this chapter or the rules adopted
20 under this chapter; or

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

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

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

31 (2) Prior to imposing a limited stop service, the department
32 shall provide the medical test site a written notification upon
33 identifying deficient practices or conditions that constitute an
34 immediate jeopardy. The medical test site shall have 24 hours from
35 notification to develop and implement a department-approved plan to
36 correct the deficient practices or conditions that constitute an
37 immediate jeopardy. If the deficient practices or conditions that
38 constitute immediate jeopardy are not verified by the department as

1 having been corrected within the same 24-hour period, the department
2 may issue the limited stop service.

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

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

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

12 (a) The department verifies the violation necessitating the
13 limited stop service has been corrected or the department determines
14 that the medical test site has taken intermediate action to address
15 the immediate jeopardy; and

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

18 (6) Except as otherwise provided, RCW 43.70.115 governs notice of
19 actions taken by the department under subsection (1) of this section
20 and provides the right to an adjudicative proceeding. Adjudicative
21 proceedings and hearings under this section are governed by the
22 administrative procedure act, chapter 34.05 RCW. The application for
23 an adjudicative proceeding must be in writing, state the basis for
24 contesting the adverse action, include a copy of the department's
25 notice, be served on and received by the department within 28 days of
26 the medical test site's receipt of the adverse notice, and be served
27 in a manner that shows proof of receipt.

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

33 (a) When the department makes the suspension of a license or
34 imposition of conditions on a license effective immediately, a
35 licensee is entitled to a show cause hearing before a presiding
36 officer within 14 days of making the request. The licensee must
37 request the show cause hearing within 28 days of receipt of the
38 notice of immediate suspension or immediate imposition of conditions.
39 At the show cause hearing the department has the burden of

1 demonstrating that more probably than not there is an immediate
2 jeopardy.

3 (b) At the show cause hearing, the presiding officer may consider
4 the notice and documents supporting the immediate suspension or
5 immediate imposition of conditions and the licensee's response and
6 shall provide the parties with an opportunity to provide documentary
7 evidence and written testimony, and to be represented by counsel.
8 Prior to the show cause hearing, the department shall provide the
9 licensee with all documentation that supports the department's
10 immediate suspension or imposition of conditions.

11 (c) If the presiding officer determines there is no immediate
12 jeopardy, the presiding officer may overturn the immediate suspension
13 or immediate imposition of conditions.

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

17 (e) If the presiding officer sustains the immediate suspension or
18 immediate imposition of conditions, the licensee may request an
19 expedited full hearing on the merits of the department's action. A
20 full hearing must be provided within 90 days of the licensee's
21 request.

22 (8) When the department determines an alleged violation, if true,
23 would constitute an immediate jeopardy, and the licensee fails to
24 cooperate with the department's investigation of such an alleged
25 violation, the department may impose an immediate limited stop
26 service, immediate suspension, or immediate imposition of conditions.

27 (a) When the department imposes an immediate limited stop
28 service, immediate suspension, or immediate imposition of conditions
29 for failure to cooperate, a licensee is entitled to a show cause
30 hearing before a presiding officer within 14 days of making the
31 request. The licensee must request the show cause hearing within 28
32 days of receipt of the notice of an immediate limited stop service,
33 immediate suspension, or immediate imposition of conditions for
34 failure to cooperate. At the show cause hearing the department has
35 the burden of demonstrating that more probably than not the alleged
36 violation, if true, would constitute an immediate jeopardy and the
37 licensee failed to cooperate with the department's investigation.

38 (b) At the show cause hearing, the presiding officer may consider
39 the notice and documents supporting the immediate limited stop
40 service, immediate suspension, or immediate imposition of conditions

1 for failure to cooperate, and the licensee's response and shall
2 provide the parties with an opportunity to provide documentary
3 evidence and written testimony, and to be represented by counsel.
4 Prior to the show cause hearing, the department shall provide the
5 licensee with all documentation that supports the department's
6 immediate action for failure to cooperate.

7 (c) If the presiding officer determines the alleged violation, if
8 true, does not constitute an immediate jeopardy or determines that
9 the licensee cooperated with the department's investigation, the
10 presiding officer may overturn the immediate action for failure to
11 cooperate.

12 (d) If the presiding officer determines the allegation, if true,
13 would constitute an immediate jeopardy and the licensee failed to
14 cooperate with the department's investigation, the immediate action
15 for failure to cooperate shall remain in effect pending a full
16 hearing.

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

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

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

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

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

34 (3) The person to whom the notice to cease and desist is issued
35 may request an adjudicative proceeding to contest the notice. The
36 adjudicative proceeding is governed by the administrative procedure
37 act, chapter 34.05 RCW. The request for an adjudicative proceeding
38 must be in writing, state the basis for contesting the notice,
39 include a copy of the notice, and be served on and received by the

1 department within 20 days from the date the person receives the
2 notice to cease and desist.

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

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

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

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

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

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

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

37 (6) Neither the issuance of a cease and desist order nor payment
38 of a civil fine shall relieve the person so operating a medical test
39 site without a license from criminal prosecution, but the remedy of a
40 cease and desist order or civil fine shall be in addition to any

1 criminal liability. A final notice to cease and desist is conclusive
2 proof of unlicensed operation and may be enforced under RCW 7.21.060.
3 This method of enforcement of the final notice to cease and desist or
4 civil fine may be used in addition to, or as an alternative to, any
5 provisions for enforcement of agency orders set out in chapter 34.05
6 RCW.

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

9 (1) Notwithstanding the existence or use of any other remedy, the
10 department may, in the manner provided by law and upon the advice of
11 the attorney general, who shall represent the department in the
12 proceedings, maintain an action in the name of the state for an
13 injunction or other process against any person to restrain or prevent
14 the advertising, operating, maintaining, managing, or opening of a
15 test site without a license under this chapter. It is a misdemeanor
16 to own, operate, or maintain a test site without a license.

17 (2) The injunction shall not relieve the person operating a
18 medical test site without a license from criminal prosecution, or the
19 imposition of a civil fine under section 8 of this act, but the
20 remedy by injunction shall be in addition to any criminal liability
21 or civil fine. A person that violates an injunction issued under this
22 chapter shall pay a civil penalty, as determined by the court, of not
23 more than \$25,000, which shall be deposited in the department's local
24 fee account. For the purpose of this section, the superior court
25 issuing any injunction shall retain jurisdiction and the cause shall
26 be continued, and in such cases the attorney general acting in the
27 name of the state may petition for the recovery of civil penalties.
28 All fines, forfeitures, and penalties collected or assessed by a
29 court because of a violation of RCW 70.42.020 shall be deposited in
30 the department's local fee account.

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

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

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

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

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

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

7 (5) "Home care agency" means a person administering or providing
8 home care services directly or through a contract arrangement to
9 individuals in places of temporary or permanent residence. A home
10 care agency that provides delegated tasks of nursing under RCW
11 18.79.260(3)(e) is not considered a home health agency for the
12 purposes of this chapter.

13 (6) "Home care services" means nonmedical services and assistance
14 provided to ill, disabled, or vulnerable individuals that enable them
15 to remain in their residences. Home care services include, but are
16 not limited to: Personal care such as assistance with dressing,
17 feeding, and personal hygiene to facilitate self-care; homemaker
18 assistance with household tasks, such as housekeeping, shopping, meal
19 planning and preparation, and transportation; respite care assistance
20 and support provided to the family; or other nonmedical services or
21 delegated tasks of nursing under RCW 18.79.260(3)(e).

22 (7) "Home health agency" means a person administering or
23 providing two or more home health services directly or through a
24 contract arrangement to individuals in places of temporary or
25 permanent residence. A person administering or providing nursing
26 services only may elect to be designated a home health agency for
27 purposes of licensure.

28 (8) "Home health services" means services provided to ill,
29 disabled, or vulnerable individuals. These services include but are
30 not limited to nursing services, home health aide services, physical
31 therapy services, occupational therapy services, speech therapy
32 services, respiratory therapy services, nutritional services, medical
33 social services, and home medical supplies or equipment services.

34 (9) "Home health aide services" means services provided by a home
35 health agency or a hospice agency under the supervision of a
36 registered nurse, physical therapist, occupational therapist, or
37 speech therapist who is employed by or under contract to a home
38 health or hospice agency. Such care includes ambulation and exercise,
39 assistance with self-administered medications, reporting changes in

1 patients' conditions and needs, completing appropriate records, and
2 personal care or homemaker services.

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

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

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

14 (13) "Hospice services" means symptom and pain management
15 provided to a terminally ill individual, and emotional, spiritual,
16 and bereavement support for the individual and family in a place of
17 temporary or permanent residence, and may include the provision of
18 home health and home care services for the terminally ill individual.

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

24 (15) "In-home services agency" means a person licensed to
25 administer or provide home health, home care, hospice services, or
26 hospice care center services directly or through a contract
27 arrangement to individuals in a place of temporary or permanent
28 residence.

29 ((15)) (16) "Person" means any individual, business, firm,
30 partnership, corporation, company, association, joint stock
31 association, public or private agency or organization, or the legal
32 successor thereof that employs or contracts with two or more
33 individuals.

34 ((16)) (17) "Plan of care" means a written document based on
35 assessment of individual needs that identifies services to meet these
36 needs.

37 ((17)) (18) "Quality improvement" means reviewing and
38 evaluating appropriateness and effectiveness of services provided
39 under this chapter.

1 ~~((18))~~ (19) "Service area" means the geographic area in which
2 the department has given prior approval to a licensee to provide home
3 health, hospice, or home care services.

4 ~~((19))~~ (20) "Social worker" means a person with a degree from a
5 social work educational program accredited and approved as provided
6 in RCW 18.320.010 or who meets qualifications provided in 42 C.F.R.
7 Sec. 418.114 as it existed on January 1, 2012.

8 ~~((20))~~ (21) "Survey" means an inspection conducted by the
9 department to evaluate and monitor an agency's compliance with this
10 chapter.

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

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

25 (1) Failed or refused to comply with the requirements of this
26 chapter ~~((or the))~~, standards or rules adopted under this chapter, or
27 other applicable state or federal statutes or rules regulating the
28 facility or agency;

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

33 (3) Has knowingly or with reason to know made a misrepresentation
34 of, false statement of, or failed to disclose, a material fact to the
35 department in an application for the license or any data attached
36 thereto or in any record required by this chapter or matter under
37 investigation by the department, or during a survey, or concerning
38 information requested by the department;

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

4 (5) Willfully prevented, interfered with, or attempted to impede
5 in any way the work of any representative of the department and the
6 lawful enforcement of any provision of this chapter. This includes
7 but is not limited to: Willful misrepresentation of facts during a
8 survey, investigation, or administrative proceeding or any other
9 legal action; or use of threats or harassment against any patient,
10 client, or witness, or use of financial inducements to any patient,
11 client, or witness to prevent or attempt to prevent him or her from
12 providing evidence during a survey or investigation, in an
13 administrative proceeding, or any other legal action involving the
14 department;

15 (6) Willfully prevented or interfered with any representative of
16 the department in the preservation of evidence of any violation of
17 this chapter or the rules adopted under this chapter;

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

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

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

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

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

30 (12) Was the holder of a license to provide care or treatment to
31 ill individuals, (~~(disabled, or)~~) vulnerable individuals, or
32 individuals with disabilities that was denied, restricted, not
33 renewed, surrendered, suspended, or revoked by a competent authority
34 in any state, federal, or foreign jurisdiction. A certified copy of
35 the order, stipulation, or agreement is conclusive evidence of the
36 denial, restriction, nonrenewal, surrender, suspension, or
37 revocation;

38 (~~Violated any state or federal statute, or administrative~~
39 ~~rule regulating the operation of the agency;~~

- 1 ~~(14)~~) Failed to comply with an order issued by the secretary or
2 designee;
- 3 ~~((15))~~ (14) Aided or abetted the unlicensed operation of an in-
4 home services agency;
- 5 ~~((16))~~ (15) Operated beyond the scope of the in-home services
6 agency license;
- 7 ~~((17))~~ (16) Failed to adequately supervise staff to the extent
8 that the health or safety of a patient or client was at risk;
- 9 ~~((18))~~ (17) Compromised the health or safety of a patient or
10 client, including, but not limited to, the individual performing
11 services beyond their authorized scope of practice;
- 12 ~~((19))~~ (18) Continued to operate after license revocation,
13 suspension, or expiration, or operating outside the parameters of a
14 modified, conditioned, or restricted license;
- 15 ~~((20))~~ (19) Failed or refused to comply with chapter 70.02 RCW;
- 16 ~~((21))~~ (20) Abused, neglected, abandoned, or financially
17 exploited a patient or client as these terms are defined in RCW
18 74.34.020;
- 19 ~~((22))~~ (21) Misappropriated the property of an individual;
- 20 ~~((23))~~ (22) Is unqualified or unable to operate or direct the
21 operation of the agency according to this chapter and the rules
22 adopted under this chapter;
- 23 ~~((24))~~ (23) Obtained or attempted to obtain a license by
24 fraudulent means or misrepresentation; or
- 25 ~~((25))~~ (24) Failed to report abuse or neglect of a patient or
26 client in violation of chapter 74.34 RCW.

27 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.127
28 RCW to read as follows:

29 (1) When the department determines the in-home services agency
30 has previously been subject to an enforcement action for the same or
31 similar type of violation of the same statute or rule, or has been
32 given any previous statement of deficiency that included the same or
33 similar type of violation of the same or similar statute or rule, or
34 when the in-home services agency failed to correct noncompliance with
35 a statute or rule by a date established or agreed to by the
36 department, the department may impose reasonable conditions on a
37 license. Conditions may include correction within a specified amount
38 of time, training, or hiring a department-approved consultant if the
39 in-home services agency cannot demonstrate to the department that it

1 has access to sufficient internal expertise. If the department
2 determines that the violations constitute immediate jeopardy, the
3 conditions may be imposed immediately in accordance with subsection
4 (5) of this section.

5 (2) (a) In accordance with the authority the department has under
6 RCW 43.70.095, the department may assess a civil fine of up to \$3,000
7 per violation on an in-home services agency licensed under this
8 chapter when the department determines the in-home services agency
9 has previously been subject to an enforcement action for the same or
10 similar type of violation of the same statute or rule, or has been
11 given any previous statement of deficiency that included the same or
12 similar type of violation of the same or similar statute or rule, or
13 when the in-home services agency failed to correct noncompliance with
14 a statute or rule by a date established or agreed to by the
15 department.

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

19 (c) The department shall adopt in rules under this chapter
20 specific fine amounts in relation to the severity of the
21 noncompliance and at an adequate level to be a deterrent to future
22 noncompliance.

23 (d) If a licensee is aggrieved by the department's action of
24 assessing civil fines, the licensee has the right to appeal under RCW
25 43.70.095.

26 (3) The department may suspend a specific category or categories
27 of services or care that the in-home services agency provides as
28 related to the violation by imposing a limited stop service. This may
29 only be done if the department finds that noncompliance results in
30 immediate jeopardy.

31 (a) Prior to imposing a limited stop service, the department
32 shall provide an in-home services agency written notification upon
33 identifying deficient practices or conditions that constitute an
34 immediate jeopardy. The in-home services agency shall have 24 hours
35 from notification to develop and implement a department-approved plan
36 to correct the deficient practices or conditions that constitute an
37 immediate jeopardy. If the deficient practices or conditions that
38 constitute immediate jeopardy are not verified by the department as
39 having been corrected within the same 24-hour period, the department
40 may issue the limited stop service.

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

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

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

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

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

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

23 (a) Prior to imposing a stop placement, the department shall
24 provide an in-home services agency that qualifies as a hospice care
25 center written notification upon identifying deficient practices or
26 conditions that constitute an immediate jeopardy. The hospice care
27 center shall have 24 hours from notification to develop and implement
28 a department-approved plan to correct the deficient practices or
29 conditions that constitute an immediate jeopardy. If the deficient
30 practices or conditions that constitute immediate jeopardy are not
31 verified by the department as having been corrected within the same
32 24-hour period, the department may issue the stop placement.

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

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

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

1 (i) The department verifies the violation necessitating the stop
2 placement has been corrected or the department determines that the
3 hospice care center has taken intermediate action to address the
4 immediate jeopardy; and

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

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

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

11 (1) Except as otherwise provided, RCW 43.70.115 governs notice of
12 the imposition of conditions on a license, a limited stop service,
13 stop placement, or the suspension, revocation, or refusal to renew a
14 license and provides the right to an adjudicative proceeding.
15 Adjudicative proceedings and hearings under this section are governed
16 by the administrative procedure act, chapter 34.05 RCW. The
17 application for an adjudicative proceeding must be in writing, state
18 the basis for contesting the adverse action, include a copy of the
19 department's notice, be served on and received by the department
20 within 28 days of the licensee's receipt of the adverse notice, and
21 be served in a manner that shows proof of receipt.

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

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

36 (b) At the show cause hearing, the presiding officer may consider
37 the notice and documents supporting the immediate suspension or
38 immediate imposition of conditions and the licensee's response and
39 shall provide the parties with an opportunity to provide documentary

1 evidence and written testimony, and to be represented by counsel.
2 Prior to the show cause hearing, the department shall provide the
3 licensee with all documentation that supports the department's
4 immediate suspension or imposition of conditions.

5 (c) If the presiding officer determines there is no immediate
6 jeopardy, the presiding officer may overturn the immediate suspension
7 or immediate imposition of conditions.

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

11 (e) If the presiding officer sustains the immediate suspension or
12 immediate imposition of conditions, the licensee may request an
13 expedited full hearing on the merits of the department's action. A
14 full hearing must be provided within 90 days of the licensee's
15 request.

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

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

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

1 provide the licensee with all documentation that supports the
2 department's immediate action for failure to cooperate.

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

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

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

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

19 (1) The department may (~~issue a notice of intention to issue a~~)
20 give written notice to cease and desist (~~order~~) to any person whom
21 the department has reason to believe is engaged in the unlicensed
22 operation of an in-home services agency. (~~The person to whom the~~
23 ~~notice of intent is issued may request an adjudicative proceeding to~~
24 ~~contest the charges. The request for hearing must be filed within~~
25 ~~twenty days after service of the notice of intent to issue a cease~~
26 ~~and desist order. The failure to request a hearing constitutes a~~
27 ~~default, whereupon the department may enter a permanent cease and~~
28 ~~desist order, which may include a civil fine. All proceedings shall~~
29 ~~be conducted in accordance with chapter 34.05 RCW.~~

30 ~~(2) If the department makes a final determination that a person~~
31 ~~has engaged or is engaging in unlicensed operation of an in-home~~
32 ~~services agency, the department may issue a cease and desist order.~~
33 ~~In addition, the department may impose a civil fine in an amount not~~
34 ~~exceeding one thousand dollars for each day upon which the person~~
35 ~~engaged in unlicensed operation of an in-home services agency. The~~
36 ~~proceeds of such fines shall be deposited in the department's local~~
37 ~~fee account.~~

38 ~~(3) If the department makes a written finding of fact that the~~
39 ~~public interest will be irreparably harmed by delay in issuing an~~

1 ~~order, the department may issue a temporary cease and desist order.~~
2 ~~The person receiving a temporary cease and desist order shall be~~
3 ~~provided an opportunity for a prompt hearing. The temporary cease and~~
4 ~~desist order shall remain in effect until further order of the~~
5 ~~department. The failure to request a prompt or regularly scheduled~~
6 ~~hearing constitutes a default, whereupon the department may enter a~~
7 ~~permanent cease and desist order, which may include a civil fine.~~

8 ~~(4) Neither the issuance of a cease and desist order nor payment~~
9 ~~of a civil fine shall relieve the person so operating an in-home~~
10 ~~services agency without a license from criminal prosecution, but the~~
11 ~~remedy of a cease and desist order or civil fine shall be in addition~~
12 ~~to any criminal liability. The cease and desist order is conclusive~~
13 ~~proof of unlicensed operation and may be enforced under RCW 7.21.060.~~
14 ~~This method of enforcement of the cease and desist order or civil~~
15 ~~fine may be used in addition to, or as an alternative to, any~~
16 ~~provisions for enforcement of agency orders set out in chapter 34.05~~
17 ~~RCW.)~~

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
40 unreasonable delay in the proceeding, if the circumstances change so

1 that implementation is in the public interest, or for other good
2 cause.

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

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

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

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

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

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

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

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

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Ambulatory surgical facility" means any distinct entity that
4 operates for the primary purpose of providing specialty or
5 multispecialty outpatient surgical services in which patients are
6 admitted to and discharged from the facility within (~~twenty-four~~)
7 24 hours and do not require inpatient hospitalization, whether or not
8 the facility is certified under Title XVIII of the federal social
9 security act. An ambulatory surgical facility includes one or more
10 surgical suites that are adjacent to and within the same building as,
11 but not in, the office of a practitioner in an individual or group
12 practice, if the primary purpose of the one or more surgical suites
13 is to provide specialty or multispecialty outpatient surgical
14 services, irrespective of the type of anesthesia administered in the
15 one or more surgical suites. An ambulatory surgical facility that is
16 adjacent to and within the same building as the office of a
17 practitioner in an individual or group practice may include a
18 surgical suite that shares a reception area, restroom, waiting room,
19 or wall with the office of the practitioner in an individual or group
20 practice.

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

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

26 (4) "Immediate jeopardy" means a situation in which the
27 ambulatory surgical facility's noncompliance with one or more
28 statutory or regulatory requirements has placed the health and safety
29 of patients in its care at risk for serious injury, serious harm,
30 serious impairment, or death.

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

34 (~~(5)~~) (6) "Practitioner" means any physician or surgeon
35 licensed under chapter 18.71 RCW, an osteopathic physician or surgeon
36 licensed under chapter 18.57 RCW, or a podiatric physician or surgeon
37 licensed under chapter 18.22 RCW.

38 (~~(6)~~) (7) "Secretary" means the secretary of health.

39 (~~(7)~~) (8) "Surgical services" means invasive medical procedures
40 that:

- 1 (a) Utilize a knife, laser, cautery, cryogenics, or chemicals;
2 and
3 (b) Remove, correct, or facilitate the diagnosis or cure of a
4 disease, process, or injury through that branch of medicine that
5 treats diseases, injuries, and deformities by manual or operative
6 methods by a practitioner.

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

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

15 ~~(2) The secretary shall investigate complaints concerning~~
16 ~~operation of an ambulatory surgical facility without a license. The~~
17 ~~secretary may issue a notice of intention to issue a cease and desist~~
18 ~~order to any person whom the secretary has reason to believe is~~
19 ~~engaged in the unlicensed operation of an ambulatory surgical~~
20 ~~facility. If the secretary makes a written finding of fact that the~~
21 ~~public interest will be irreparably harmed by delay in issuing an~~
22 ~~order, the secretary may issue a temporary cease and desist order.~~
23 ~~The person receiving a temporary cease and desist order shall be~~
24 ~~provided an opportunity for a prompt hearing. The temporary cease and~~
25 ~~desist order shall remain in effect until further order of the~~
26 ~~secretary. Any person operating an ambulatory surgical facility under~~
27 ~~this chapter without a license is guilty of a misdemeanor, and each~~
28 ~~day of operation of an unlicensed ambulatory surgical facility~~
29 ~~constitutes a separate offense.~~

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

37 ~~(4) Pursuant to chapter 34.05 RCW, the secretary may assess~~
38 ~~monetary penalties of a civil nature not to exceed one thousand~~
39 ~~dollars per violation.)) The department is authorized to take any of~~

1 the actions identified in this section against an ambulatory surgical
2 facility's license or provisional license in any case in which it
3 finds that there has been a failure or refusal to comply with the
4 requirements of this chapter or the standards or rules adopted under
5 this chapter.

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

18 (b) (i) In accordance with the authority the department has under
19 RCW 43.70.095, the department may assess a civil fine of up to \$7,500
20 per violation on an ambulatory surgical facility licensed under this
21 chapter when the department determines the ambulatory surgical
22 facility has previously been subject to an enforcement action for the
23 same or similar type of violation of the same statute or rule, or has
24 been given any previous statement of deficiency that included the
25 same or similar type of violation of the same or similar statute or
26 rule, or when the ambulatory surgical facility failed to correct
27 noncompliance with a statute or rule by a date established or agreed
28 to by the department.

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

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

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

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

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

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

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

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

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

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

22 (ii) When the department imposes a limited stop service, the
23 ambulatory surgical facility may not provide the services in the
24 category or categories subject to the limited stop service to any new
25 or existing individuals, unless otherwise allowed by the department,
26 until the limited stop service is terminated.

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

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

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

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

39 (d) The department may suspend new admissions to the ambulatory
40 surgical facility by imposing a stop placement. This may only be done

1 if the department finds that noncompliance results in immediate
2 jeopardy and is not confined to a specific category or categories of
3 patients or a specific area of the ambulatory surgical facility.

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

14 (ii) When the department imposes a stop placement, the ambulatory
15 surgical facility may not admit any new patients until the stop
16 placement 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 ambulatory surgical facility if more than five business days is
20 needed to verify the violation necessitating the stop placement has
21 been corrected.

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

23 (A) The department verifies the violation necessitating the stop
24 placement has been corrected or the department determines that the
25 ambulatory surgical facility has taken intermediate action to address
26 the immediate jeopardy; and

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

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

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

37 (3) Except as otherwise provided, RCW 43.70.115 governs notice of
38 actions taken by the department under this section and provides the
39 right to an adjudicative proceeding. Adjudicative proceedings and
40 hearings under this section are governed by the administrative

1 procedure act, chapter 34.05 RCW. The application for an adjudicative
2 proceeding must be in writing, state the basis for contesting the
3 adverse action, include a copy of the department's notice, be served
4 on and received by the department within 28 days of the licensee's
5 receipt of the adverse notice, and be served in a manner that shows
6 proof of receipt.

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

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

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

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

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

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

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

7 (a) When the department imposes an immediate stop placement,
8 immediate limited stop service, immediate imposition of conditions,
9 or immediate suspension for failure to cooperate, a licensee is
10 entitled to a show cause hearing before a presiding officer within 14
11 days of making the request. The licensee must request the show cause
12 hearing within 28 days of receipt of the notice of an immediate stop
13 placement, immediate limited stop service, immediate imposition of
14 conditions, or immediate suspension for failure to cooperate.

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

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

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

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

38 (f) If the presiding officer sustains the immediate action for
39 failure to cooperate, the licensee may request an expedited full

1 hearing on the merits of the department's action. A full hearing must
2 be provided within 90 days of the licensee's request.

3 NEW SECTION. **Sec. 17.** A new section is added to chapter 70.230
4 RCW to read as follows:

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

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

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

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

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

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

1 if staying implementation is in the public interest or for other good
2 cause.

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

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

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

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

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

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

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

32 (1) In any case in which the department finds that a (~~licensed~~
33 ~~psychiatric hospital~~) private establishment has failed or refused to
34 comply with (~~applicable state~~) the requirements of this chapter,
35 the standards or rules adopted under this chapter, or other
36 applicable state or federal statutes or (~~regulations~~) rules, the
37 department may take one or more of the actions identified in this
38 section, except as otherwise limited in this section.

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

14 (b) (i) In accordance with the authority the department has under
15 RCW 43.70.095, the department may assess a civil fine of up to (~~ten~~
16 ~~thousand dollars~~) \$10,000 per violation, not to exceed a total fine
17 of (~~one million dollars~~) \$1,000,000, on a (~~hospital~~) private
18 establishment licensed under this chapter when the department
19 determines the (~~psychiatric hospital~~) private establishment has
20 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 (~~psychiatric hospital~~) private establishment failed to
25 correct noncompliance with a statute or rule by a date established or
26 agreed to by the department.

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

31 (iii) The department shall adopt in rules under this chapter
32 specific fine amounts in relation to the severity of the
33 noncompliance.

34 (iv) 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 (c) (~~In accordance with RCW 43.70.095, the department may impose~~
38 ~~civil fines of up to ten thousand dollars for each day a person~~
39 ~~operates a psychiatric hospital without a valid license. Proceeds~~
40 ~~from these fines may only be used by the department to provide~~

1 ~~training or technical assistance to psychiatric hospitals and to~~
2 ~~offset costs associated with licensing psychiatric hospitals.~~

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

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

19 (ii) When the department imposes a limited stop placement, the
20 ~~((psychiatric hospital))~~ private establishment may not ~~((admit any~~
21 ~~new patients))~~ accept any new admissions in the category or
22 categories subject to the limited stop placement until the limited
23 stop placement order 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 ~~((psychiatric hospital))~~ private establishment if more than five
27 business days is needed to verify the violation necessitating the
28 limited stop placement has been corrected.

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

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

34 (B) The ~~((psychiatric hospital))~~ private establishment
35 establishes the ability to maintain correction of the violation
36 previously found deficient.

37 ~~((e))~~ (d) The department may suspend all new admissions to the
38 ~~((psychiatric hospital))~~ private establishment by imposing a stop
39 placement. This may only be done if the department finds that
40 noncompliance results in immediate jeopardy and is not confined to a

1 specific category or categories of patients or a specific area of the
2 (~~psychiatric hospital~~) private establishment.

3 (i) Prior to imposing a stop placement, the department shall
4 provide a (~~psychiatric hospital~~) private establishment written
5 notification upon identifying deficient practices or conditions that
6 constitute an immediate jeopardy, and the (~~psychiatric hospital~~)
7 private establishment shall have (~~twenty-four~~) 24 hours from
8 notification to develop and implement a department-approved plan to
9 correct the deficient practices or conditions that constitute an
10 immediate jeopardy. If the deficient practices or conditions that
11 constitute immediate jeopardy are not verified by the department as
12 having been corrected within the same (~~twenty-four~~) 24-hour period,
13 the department may issue the stop placement.

14 (ii) When the department imposes a stop placement, the
15 (~~psychiatric hospital~~) private establishment may not (~~admit any~~
16 ~~new patients~~) accept any new admissions until the stop placement
17 order is terminated.

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

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

24 (A) The department verifies the violation necessitating the stop
25 placement has been corrected or the department determines that the
26 (~~psychiatric hospital~~) private establishment has taken intermediate
27 action to address the immediate jeopardy; and

28 (B) The (~~psychiatric hospital~~) private establishment
29 establishes the ability to maintain correction of the violation
30 previously found deficient.

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

36 (i) Prior to imposing a limited stop service, the department
37 shall provide a private establishment written notification upon
38 identifying deficient practices or conditions that constitute an
39 immediate jeopardy. The private establishment shall have 24 hours
40 from notification to develop and implement a department-approved plan

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

6 (ii) When the department imposes a limited stop service, the
7 private establishment may not provide the services in the category or
8 categories subject to the limited stop service to any new or existing
9 individuals, unless otherwise allowed by the department, until the
10 limited stop service is terminated.

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

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

16 (A) The department verifies the violation necessitating the
17 limited stop service has been corrected or the department determines
18 that the private establishment has taken intermediate action to
19 address the immediate jeopardy; and

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

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

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

36 (b) When the department determines a licensee's noncompliance
37 results in immediate jeopardy, the department may make the imposition
38 of conditions on a licensee, a limited stop placement, stop
39 placement, limited stop service, or the suspension of a license

1 effective immediately upon receipt of the notice by the licensee,
2 pending any adjudicative proceeding.

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

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

20 (iii) If the presiding officer determines there is no immediate
21 jeopardy, the presiding officer may overturn the immediate suspension
22 or immediate imposition of conditions.

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

26 (v) If the secretary sustains the immediate suspension or
27 immediate imposition of conditions, the licensee may request an
28 expedited full hearing on the merits of the department's action. A
29 full hearing must be provided within (~~ninety~~) 90 days of the
30 licensee's request.

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

37 (a) When the department imposes an immediate stop placement,
38 immediate limited stop placement, immediate limited stop service,
39 immediate imposition of conditions, or immediate suspension for
40 failure to cooperate, a licensee is entitled to a show cause hearing

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

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

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

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

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

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

36 The definitions in this section apply throughout this chapter
37 unless the context clearly requires otherwise.

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

1 (2) "Elopement" means any situation in which an admitted patient
2 of a ~~((psychiatric hospital))~~ private establishment who is
3 cognitively, physically, mentally, emotionally, and/or chemically
4 impaired wanders, walks, runs away, escapes, or otherwise leaves a
5 ~~((psychiatric hospital))~~ private establishment or the grounds of a
6 ~~((psychiatric hospital))~~ private establishment prior to the patient's
7 scheduled discharge unsupervised, unnoticed, and without the staff's
8 knowledge.

9 (3) "~~((Establishment))~~ Private establishment," "establishment,"
10 and "institution" mean:

11 (a) Every private or county or municipal hospital, including
12 public hospital districts, ~~((sanatoriums,))~~ homes, ~~((psychiatric))~~
13 behavioral health hospitals, residential treatment facilities, or
14 other places receiving or caring for any person with ~~((mental~~
15 ~~illness, mentally incompetent person, or chemically dependent~~
16 ~~person))~~ a behavioral health or substance use disorder; and

17 (b) Beginning January 1, 2019, facilities providing pediatric
18 transitional care services.

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

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

28 (6) "~~((Psychiatric))~~ Behavioral health hospital" means an
29 establishment caring for any person with mental illness or substance
30 use disorder excluding acute care hospitals licensed under chapter
31 70.41 RCW, state psychiatric hospitals established under chapter
32 72.23 RCW, and residential treatment facilities as defined in this
33 section.

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

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

1 (9) "Technical assistance" means the provision of information on
2 the state laws and rules applicable to the regulation of
3 (~~(psychiatric hospitals)~~) private establishments, the process to
4 apply for a license, and methods and resources to avoid or address
5 compliance problems. Technical assistance does not include assistance
6 provided under chapter 43.05 RCW.

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

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

14 The department (~~(of health)~~) may at any time examine (~~(and~~
15 ~~ascertain how far)~~) a licensed private establishment (~~(is conducted~~
16 ~~in compliance with this chapter, the rules adopted under this~~
17 ~~chapter, and the requirements of the license therefor. If the~~
18 ~~interests of the patients of the establishment so demand, the~~
19 ~~department may, for just and reasonable cause, suspend, modify, or~~
20 ~~revoke any such license. RCW 43.70.115 governs notice of a license~~
21 ~~denial, revocation, suspension, or modification and provides the~~
22 ~~right to an adjudicative proceeding.)) to determine whether it has
23 failed or refused to comply with the requirements of this chapter,
24 the standards or rules adopted under this chapter, or other
25 applicable state or federal statutes or rules regulating private
26 establishments.~~

27 NEW SECTION. **Sec. 21.** A new section is added to chapter 71.12
28 RCW to read as follows:

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

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

35 (b) The department may make the date the action is effective
36 sooner than 20 days after receipt when necessary to protect the
37 public health, safety, or welfare. When the department does so, it

1 shall state the effective date and the reasons supporting the
2 effective date in the written notice to cease and desist.

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

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

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

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

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

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

35 (c) The person against whom the department assesses a civil fine
36 has the right to request an adjudicative proceeding. The proceeding
37 is governed by the administrative procedure act, chapter 34.05 RCW.
38 The request must be in writing, state the basis for contesting the
39 fine, include a copy of the notice, be served on and received by the

1 department within 20 days of the person receiving the notice of civil
2 fine, and be served in a manner which shows proof of receipt.

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

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

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

18 When used in this chapter, the terms defined in this section
19 shall have the meanings indicated.

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

22 (2) "Capital expenditure" is an expenditure, including a force
23 account expenditure (i.e., an expenditure for a construction project
24 undertaken by a nursing home facility as its own contractor) which,
25 under generally accepted accounting principles, is not properly
26 chargeable as an expense of operation or maintenance. Where a person
27 makes an acquisition under lease or comparable arrangement, or
28 through donation, which would have required review if the acquisition
29 had been made by purchase, such expenditure shall be deemed a capital
30 expenditure. Capital expenditures include donations of equipment or
31 facilities to a nursing home facility which if acquired directly by
32 such facility would be subject to certificate of need review under
33 the provisions of this chapter and transfer of equipment or
34 facilities for less than fair market value if a transfer of the
35 equipment or facilities at fair market value would be subject to such
36 review. The cost of any studies, surveys, designs, plans, working
37 drawings, specifications, and other activities essential to the
38 acquisition, improvement, expansion, or replacement of any plant or

1 equipment with respect to which such expenditure is made shall be
2 included in determining the amount of the expenditure.

3 (3) "Continuing care retirement community" means an entity which
4 provides shelter and services under continuing care contracts with
5 its members and which sponsors or includes a health care facility or
6 a health service. A "continuing care contract" means a contract to
7 provide a person, for the duration of that person's life or for a
8 term in excess of one year, shelter along with nursing, medical,
9 health-related, or personal care services, which is conditioned upon
10 the transfer of property, the payment of an entrance fee to the
11 provider of such services, or the payment of periodic charges for the
12 care and services involved. A continuing care contract is not
13 excluded from this definition because the contract is mutually
14 terminable or because shelter and services are not provided at the
15 same location.

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

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

23 (6) "Health care facility" means hospices, hospice care centers,
24 hospitals, (~~psychiatric~~) behavioral health hospitals, nursing
25 homes, kidney disease treatment centers, ambulatory surgical
26 facilities, and home health agencies, and includes such facilities
27 when owned and operated by a political subdivision or instrumentality
28 of the state and such other facilities as required by federal law and
29 implementing regulations, but does not include any health facility or
30 institution conducted by and for those who rely exclusively upon
31 treatment by prayer or spiritual means in accordance with the creed
32 or tenets of any well-recognized church or religious denomination, or
33 any health facility or institution operated for the exclusive care of
34 members of a convent as defined in RCW 84.36.800 or rectory,
35 monastery, or other institution operated for the care of members of
36 the clergy. In addition, the term does not include any nonprofit
37 hospital: (a) Which is operated exclusively to provide health care
38 services for children; (b) which does not charge fees for such
39 services; and (c) if not contrary to federal law as necessary to the
40 receipt of federal funds by the state.

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

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

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

21 (8) "Health services" means clinically related (i.e., preventive,
22 diagnostic, curative, rehabilitative, or palliative) services and
23 includes alcoholism, drug abuse, and mental health services and as
24 defined in federal law.

25 (9) "Health service area" means a geographic region appropriate
26 for effective health planning which includes a broad range of health
27 services.

28 (10) "Person" means an individual, a trust or estate, a
29 partnership, a corporation (including associations, joint stock
30 companies, and insurance companies), the state, or a political
31 subdivision or instrumentality of the state, including a municipal
32 corporation or a hospital district.

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

37 (12) "Public health" means the level of well-being of the general
38 population; those actions in a community necessary to preserve,
39 protect, and promote the health of the people for which government is

1 responsible; and the governmental system developed to guarantee the
2 preservation of the health of the people.

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

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

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

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

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

17 (a) A health maintenance organization or a combination of health
18 maintenance organizations if (i) the organization or combination of
19 organizations has, in the service area of the organization or the
20 service areas of the organizations in the combination, an enrollment
21 of at least (~~(fifty thousand)~~) 50,000 individuals, (ii) the facility
22 in which the service will be provided is or will be geographically
23 located so that the service will be reasonably accessible to such
24 enrolled individuals, and (iii) at least (~~(seventy-five)~~) 75 percent
25 of the patients who can reasonably be expected to receive the
26 tertiary health service will be individuals enrolled with such
27 organization or organizations in the combination;

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

1 (c) A health care facility (or portion thereof) if (i) the
2 facility is or will be leased by a health maintenance organization or
3 combination of health maintenance organizations which has, in the
4 service area of the organization or the service areas of the
5 organizations in the combination, an enrollment of at least (~~fifty~~
6 ~~thousand~~) 50,000 individuals and, on the date the application is
7 submitted under subsection (2) of this section, at least (~~fifteen~~)
8 15 years remain in the term of the lease, (ii) the facility is or
9 will be geographically located so that the service will be reasonably
10 accessible to such enrolled individuals, and (iii) at least
11 (~~seventy-five~~) 75 percent of the patients who can reasonably be
12 expected to receive the tertiary health service will be individuals
13 enrolled with such organization;
14 if, with respect to such offering or obligation by a nursing home,
15 the department has, upon application under subsection (2) of this
16 section, granted an exemption from such requirement to the
17 organization, combination of organizations, or facility.

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

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

25 (b) The application contains such information respecting the
26 organization, combination, or facility and the proposed offering or
27 obligation by a nursing home as the department may require to
28 determine if the organization or combination meets the requirements
29 of subsection (1) of this section or the facility meets or will meet
30 such requirements; and

31 (c) The department approves such application. The department
32 shall approve or disapprove an application for exemption within
33 (~~thirty~~) 30 days of receipt of a completed application. In the case
34 of a proposed health care facility (or portion thereof) which has not
35 begun to provide tertiary health services on the date an application
36 is submitted under this subsection with respect to such facility (or
37 portion), the facility (or portion) shall meet the applicable
38 requirements of subsection (1) of this section when the facility
39 first provides such services. The department shall approve an

1 application submitted under this subsection if it determines that the
2 applicable requirements of subsection (1) of this section are met.

3 (3) A health care facility (or any part thereof) with respect to
4 which an exemption was granted under subsection (1) of this section
5 may not be sold or leased and a controlling interest in such facility
6 or in a lease of such facility may not be acquired and a health care
7 facility described in (1)(c) which was granted an exemption under
8 subsection (1) of this section may not be used by any person other
9 than the lessee described in (1)(c) unless:

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

12 (b) The department determines, upon application, that (i) the
13 entity to which the facility is proposed to be sold or leased, which
14 intends to acquire the controlling interest, or which intends to use
15 the facility is a health maintenance organization or a combination of
16 health maintenance organizations which meets the requirements of
17 (1)(a)(i), and (ii) with respect to such facility, meets the
18 requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i)
19 and (ii).

20 (4) In the case of a health maintenance organization, an
21 ambulatory care facility, or a health care facility, which ambulatory
22 or health care facility is controlled, directly or indirectly, by a
23 health maintenance organization or a combination of health
24 maintenance organizations, the department may under the program apply
25 its certificate of need requirements to the offering of inpatient
26 tertiary health services to the extent that such offering is not
27 exempt under the provisions of this section or RCW 70.38.105(7).

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

32 (i) Offers services only to contractual members;

33 (ii) Provides its members a contractually guaranteed range of
34 services from independent living through skilled nursing, including
35 some assistance with daily living activities;

36 (iii) Contractually assumes responsibility for the cost of
37 services exceeding the member's financial responsibility under the
38 contract, so that no third party, with the exception of insurance
39 purchased by the retirement community or its members, but including

1 the medicaid program, is liable for costs of care even if the member
2 depletes his or her personal resources;

3 (iv) Has offered continuing care contracts and operated a nursing
4 home continuously since January 1, 1988, or has obtained a
5 certificate of need to establish a nursing home;

6 (v) Maintains a binding agreement with the state assuring that
7 financial liability for services to members, including nursing home
8 services, will not fall upon the state;

9 (vi) Does not operate, and has not undertaken a project that
10 would result in a number of nursing home beds in excess of one for
11 every four living units operated by the continuing care retirement
12 community, exclusive of nursing home beds; and

13 (vii) Has obtained a professional review of pricing and long-term
14 solvency within the prior five years which was fully disclosed to
15 members.

16 (b) A continuing care retirement community shall not be exempt
17 under this subsection from obtaining a certificate of need unless:

18 (i) It has submitted an application for exemption at least
19 (~~thirty~~) 30 days prior to commencing construction of, is submitting
20 an application for the licensure of, or is commencing operation of a
21 nursing home, whichever comes first; and

22 (ii) The application documents to the department that the
23 continuing care retirement community qualifies for exemption.

24 (c) The sale, lease, acquisition, or use of part or all of a
25 continuing care retirement community nursing home that qualifies for
26 exemption under this subsection shall require prior certificate of
27 need approval to qualify for licensure as a nursing home unless the
28 department determines such sale, lease, acquisition, or use is by a
29 continuing care retirement community that meets the conditions of (a)
30 of this subsection.

31 (6) A rural hospital, as defined by the department, reducing the
32 number of licensed beds to become a rural primary care hospital under
33 the provisions of Part A Title XVIII of the Social Security Act
34 Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the
35 reduction of beds licensed under chapter 70.41 RCW, increase the
36 number of licensed beds to no more than the previously licensed
37 number without being subject to the provisions of this chapter.

38 (7) A rural health care facility licensed under RCW 70.175.100
39 formerly licensed as a hospital under chapter 70.41 RCW may, within
40 three years of the effective date of the rural health care facility

1 license, apply to the department for a hospital license and not be
2 subject to the requirements of RCW 70.38.105(4)(a) as the
3 construction, development, or other establishment of a new hospital,
4 provided there is no increase in the number of beds previously
5 licensed under chapter 70.41 RCW and there is no redistribution in
6 the number of beds used for acute care or long-term care, the rural
7 health care facility has been in continuous operation, and the rural
8 health care facility has not been purchased or leased.

9 (8) A rural hospital determined to no longer meet critical access
10 hospital status for state law purposes as a result of participation
11 in the Washington rural health access preservation pilot identified
12 by the state office of rural health and formerly licensed as a
13 hospital under chapter 70.41 RCW may apply to the department to renew
14 its hospital license and not be subject to the requirements of RCW
15 70.38.105(4)(a) as the construction, development, or other
16 establishment of a new hospital, provided there is no increase in the
17 number of beds previously licensed under chapter 70.41 RCW. If all or
18 part of a formerly licensed rural hospital is sold, purchased, or
19 leased during the period the rural hospital does not meet critical
20 access hospital status as a result of participation in the Washington
21 rural health access preservation pilot and the new owner or lessor
22 applies to renew the rural hospital's license, then the sale,
23 purchase, or lease of part or all of the rural hospital is subject to
24 the provisions of this chapter.

25 (9)(a) A nursing home that voluntarily reduces the number of its
26 licensed beds to provide assisted living, licensed assisted living
27 facility care, adult day care, adult day health, respite care,
28 hospice, outpatient therapy services, congregate meals, home health,
29 or senior wellness clinic, or to reduce to one or two the number of
30 beds per room or to otherwise enhance the quality of life for
31 residents in the nursing home, may convert the original facility or
32 portion of the facility back, and thereby increase the number of
33 nursing home beds to no more than the previously licensed number of
34 nursing home beds without obtaining a certificate of need under this
35 chapter, provided the facility has been in continuous operation and
36 has not been purchased or leased. Any conversion to the original
37 licensed bed capacity, or to any portion thereof, shall comply with
38 the same life and safety code requirements as existed at the time the
39 nursing home voluntarily reduced its licensed beds; unless waivers
40 from such requirements were issued, in which case the converted beds

1 shall reflect the conditions or standards that then existed pursuant
2 to the approved waivers.

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

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

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

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

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

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

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

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

39 (i) The hospice agency is designed to serve the unique religious
40 or cultural needs of a religious group or an ethnic minority and

1 commits to furnishing hospice services in a manner specifically aimed
2 at meeting the unique religious or cultural needs of the religious
3 group or ethnic minority;

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

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

11 (B) Has operated the facility or group of facilities for at least
12 ((ten)) 10 continuous years prior to the establishment of the hospice
13 agency;

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

16 (iv) The hospice agency has a census of no more than ((forty)) 40
17 patients;

18 (v) The hospice agency commits to obtaining and maintaining
19 medicare certification;

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

23 (vii) The hospice agency is not sold or transferred to another
24 agency.

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

28 (11) To alleviate the need to board psychiatric patients in
29 emergency departments and increase capacity of hospitals to serve
30 individuals on ((ninety)) 90-day or ((one hundred eighty)) 180-day
31 commitment orders, for the period of time from May 5, 2017, through
32 June 30, 2023:

33 (a) The department shall suspend the certificate of need
34 requirement for a hospital licensed under chapter 70.41 RCW that
35 changes the use of licensed beds to increase the number of beds to
36 provide psychiatric services, including involuntary treatment
37 services. A certificate of need exemption under this subsection
38 (11) (a) shall be valid for two years.

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

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

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

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

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

14 (ii) Operated or received approval to operate, prior to January
15 19, 2018; and

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

18 (A) Was determined to be exempt from certificate of need
19 requirements pursuant to a determination of reviewability issued by
20 the department; or

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

24 (b) The exemption under this subsection:

25 (i) Applies regardless of future changes of ownership, corporate
26 structure, or affiliations of the individual or group practice as
27 long as the use of the facility remains limited to physicians in the
28 group practice; and

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

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

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

37 (1) For a grant awarded during fiscal years 2018 and 2019 by the
38 department of commerce under this section, hospitals licensed under
39 chapter 70.41 RCW and (~~(psychiatric)~~) behavioral health hospitals

1 licensed as establishments under chapter 71.12 RCW are not subject to
2 certificate of need requirements for the addition of the number of
3 new psychiatric beds indicated in the grant. The department of
4 commerce may not make a prior approval of a certificate of need
5 application a condition for a grant application under this
6 section. The period during which an approved hospital or
7 (~~psychiatric~~) behavioral health hospital project qualifies for a
8 certificate of need exemption under this section is two years from
9 the date of the grant award.

10 (2)(a) Until June 30, 2023, a hospital licensed under chapter
11 70.41 RCW is exempt from certificate of need requirements for the
12 addition of new psychiatric beds.

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

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

18 (ii) Commence the project within two years of the date of receipt
19 of the notice of exemption.

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

24 (3)(a) Until June 30, 2023, a (~~psychiatric~~) behavioral health
25 hospital licensed as an establishment under chapter 71.12 RCW is
26 exempt from certificate of need requirements for the one-time
27 addition of up to 30 new psychiatric beds devoted solely for 90-day
28 and 180-day civil commitment services and for the one-time addition
29 of up to 30 new voluntary psychiatric beds or involuntary psychiatric
30 beds for patients on a 120 hour detention or 14-day civil commitment
31 order, if the hospital makes a commitment to maintain a payer mix of
32 at least (~~fifty~~) 50 percent medicare and medicaid based on a
33 calculation using patient days for a period of five consecutive years
34 after the beds are made available for use by patients, if it
35 demonstrates to the satisfaction of the department:

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

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

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

6 (i) Notify the department of the addition of new psychiatric
7 beds. The department shall provide the (~~(psychiatric)~~) behavioral
8 health hospital with a notice of exemption within (~~(thirty)~~) 30 days;
9 and

10 (ii) Commence the project within two years of the date of receipt
11 of the notice of exemption.

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

17 (4)(a) Until June 30, 2023, an entity seeking to construct,
18 develop, or establish a (~~(psychiatric)~~) behavioral health hospital
19 licensed as an establishment under chapter 71.12 RCW is exempt from
20 certificate of need requirements if the proposed (~~(psychiatric)~~)
21 behavioral health hospital will have no more than (~~(sixteen)~~) 16 beds
22 and dedicate a portion of the beds to providing treatment to adults
23 on (~~(ninety)~~) 90 or (~~(one hundred eighty)~~) 180-day involuntary
24 commitment orders. The (~~(psychiatric)~~) behavioral health hospital may
25 also provide treatment to adults on a 120 hour detention or 14-day
26 involuntary commitment order.

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

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

33 (ii) Commence the project within two years of the date of receipt
34 of the notice of exemption.

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

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

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

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "23-hour crisis relief center" means a community-based
6 facility or portion of a facility serving adults, which is licensed
7 or certified by the department of health and open 24 hours a day,
8 seven days a week, offering access to mental health and substance use
9 care for no more than 23 hours and 59 minutes at a time per patient,
10 and which accepts all behavioral health crisis walk-ins drop-offs
11 from first responders, and individuals referred through the 988
12 system regardless of behavioral health acuity, and meets the
13 requirements under RCW 71.24.916.

14 (2) "988 crisis hotline" means the universal telephone number
15 within the United States designated for the purpose of the national
16 suicide prevention and mental health crisis hotline system operating
17 through the national suicide prevention lifeline.

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

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

22 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
23 case of a child, a gravely disabled minor as defined in RCW
24 71.34.020; or

25 (c) Presenting a likelihood of serious harm as defined in RCW
26 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

27 (4) "Alcoholism" means a disease, characterized by a dependency
28 on alcoholic beverages, loss of control over the amount and
29 circumstances of use, symptoms of tolerance, physiological or
30 psychological withdrawal, or both, if use is reduced or discontinued,
31 and impairment of health or disruption of social or economic
32 functioning.

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

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

38 (7) "Available resources" means funds appropriated for the
39 purpose of providing community behavioral health programs, federal
40 funds, except those provided according to Title XIX of the Social

1 Security Act, and state funds appropriated under this chapter or
2 chapter 71.05 RCW by the legislature during any biennium for the
3 purpose of providing residential services, resource management
4 services, community support services, and other behavioral health
5 services. This does not include funds appropriated for the purpose of
6 operating and administering the state psychiatric hospitals.

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

13 (9) "Behavioral health aide" means a counselor, health educator,
14 and advocate who helps address individual and community-based
15 behavioral health needs, including those related to alcohol, drug,
16 and tobacco abuse as well as mental health problems such as grief,
17 depression, suicide, and related issues and is certified by a
18 community health aide program of the Indian health service or one or
19 more tribes or tribal organizations consistent with the provisions of
20 25 U.S.C. Sec. 16161 and RCW 43.71B.010 (7) and (8).

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

25 (11) "Behavioral health services" means mental health services,
26 substance use disorder treatment services, and co-occurring disorder
27 treatment services as described in this chapter and chapter 71.36 RCW
28 that, depending on the type of service, are provided by licensed or
29 certified behavioral health agencies, behavioral health providers, or
30 integrated into other health care providers.

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

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

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

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

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

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

9 (15) "Community behavioral health program" means all
10 expenditures, services, activities, or programs, including reasonable
11 administration and overhead, designed and conducted to prevent or
12 treat substance use disorder, mental illness, or both in the
13 community behavioral health system.

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

19 (17) "Community support services" means services authorized,
20 planned, and coordinated through resource management services
21 including, at a minimum, assessment, diagnosis, emergency crisis
22 intervention available (~~twenty-four~~) 24 hours, seven days a week,
23 prescreening determinations for persons who are mentally ill being
24 considered for placement in nursing homes as required by federal law,
25 screening for patients being considered for admission to residential
26 services, diagnosis and treatment for children who are acutely
27 mentally ill or severely emotionally or behaviorally disturbed
28 discovered under screening through the federal Title XIX early and
29 periodic screening, diagnosis, and treatment program, investigation,
30 legal, and other nonresidential services under chapter 71.05 RCW,
31 case management services, psychiatric treatment including medication
32 supervision, counseling, psychotherapy, assuring transfer of relevant
33 patient information between service providers, recovery services, and
34 other services determined by behavioral health administrative
35 services organizations.

36 (18) "Community-based crisis team" means a team that is part of
37 an emergency medical services agency, a fire service agency, a public
38 health agency, a medical facility, a nonprofit crisis response
39 provider, or a city or county government entity, other than a law
40 enforcement agency, that provides the on-site community-based

1 interventions of a mobile rapid response crisis team for individuals
2 who are experiencing a behavioral health crisis.

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

8 (20) "County authority" means the board of county commissioners,
9 county council, or county executive having authority to establish a
10 behavioral health administrative services organization, or two or
11 more of the county authorities specified in this subsection which
12 have entered into an agreement to establish a behavioral health
13 administrative services organization.

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

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

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

25 (24) "Designated 988 contact hub" means a state-designated
26 contact center that streamlines clinical interventions and access to
27 resources for people experiencing a behavioral health crisis and
28 participates in the national suicide prevention lifeline network to
29 respond to statewide or regional 988 contacts that meets the
30 requirements of RCW 71.24.890.

31 (25) "Designated crisis responder" has the same meaning as in RCW
32 71.05.020.

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

34 (27) "Drug addiction" means a disease characterized by a
35 dependency on psychoactive chemicals, loss of control over the amount
36 and circumstances of use, symptoms of tolerance, physiological or
37 psychological withdrawal, or both, if use is reduced or discontinued,
38 and impairment of health or disruption of social or economic
39 functioning.

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

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

11 (30) "Evidence-based" means a program or practice that has been
12 tested in heterogeneous or intended populations with multiple
13 randomized, or statistically controlled evaluations, or both; or one
14 large multiple site randomized, or statistically controlled
15 evaluation, or both, where the weight of the evidence from a systemic
16 review demonstrates sustained improvements in at least one outcome.
17 "Evidence-based" also means a program or practice that can be
18 implemented with a set of procedures to allow successful replication
19 in Washington and, when possible, is determined to be cost-
20 beneficial.

21 (31) "First responders" includes ambulance, fire, mobile rapid
22 response crisis team, coresponder team, designated crisis responder,
23 fire department mobile integrated health team, community assistance
24 referral and education services program under RCW 35.21.930, and law
25 enforcement personnel.

26 (32) "Immediate jeopardy" means a situation in which the licensed
27 or certified behavioral health agency's noncompliance with one or
28 more statutory or regulatory requirements has placed the health and
29 safety of patients in its care at risk for serious injury, serious
30 harm, serious impairment, or death.

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

35 (~~((33))~~) (34) "Intensive behavioral health treatment facility"
36 means a community-based specialized residential treatment facility
37 for individuals with behavioral health conditions, including
38 individuals discharging from or being diverted from state and local
39 hospitals, whose impairment or behaviors do not meet, or no longer
40 meet, criteria for involuntary inpatient commitment under chapter

1 71.05 RCW, but whose care needs cannot be met in other community-
2 based placement settings.

3 ~~((34))~~ (35) "Licensed or certified behavioral health agency"
4 means:

5 (a) An entity licensed or certified according to this chapter or
6 chapter 71.05 RCW;

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

10 (c) An entity with a tribal attestation that it meets state
11 minimum standards for a licensed or certified behavioral health
12 agency.

13 ~~((35))~~ (36) "Licensed physician" means a person licensed to
14 practice medicine or osteopathic medicine and surgery in the state of
15 Washington.

16 ~~((36))~~ (37) "Long-term inpatient care" means inpatient services
17 for persons committed for, or voluntarily receiving intensive
18 treatment for, periods of ~~((ninety))~~ 90 days or greater under chapter
19 71.05 RCW. "Long-term inpatient care" as used in this chapter does
20 not include: (a) Services for individuals committed under chapter
21 71.05 RCW who are receiving services pursuant to a conditional
22 release or a court-ordered less restrictive alternative to detention;
23 or (b) services for individuals voluntarily receiving less
24 restrictive alternative treatment on the grounds of the state
25 hospital.

26 ~~((37))~~ (38) "Managed care organization" means an organization,
27 having a certificate of authority or certificate of registration from
28 the office of the insurance commissioner, that contracts with the
29 authority under a comprehensive risk contract to provide prepaid
30 health care services to enrollees under the authority's managed care
31 programs under chapter 74.09 RCW.

32 ~~((38))~~ (39) "Mental health peer-run respite center" means a
33 peer-run program to serve individuals in need of voluntary, short-
34 term, noncrisis services that focus on recovery and wellness.

35 ~~((39))~~ (40) Mental health "treatment records" include
36 registration and all other records concerning persons who are
37 receiving or who at any time have received services for mental
38 illness, which are maintained by the department of social and health
39 services or the authority, by behavioral health administrative
40 services organizations and their staffs, by managed care

1 organizations and their staffs, or by treatment facilities.
2 "Treatment records" do not include notes or records maintained for
3 personal use by a person providing treatment services for the
4 entities listed in this subsection, or a treatment facility if the
5 notes or records are not available to others.

6 ~~((40))~~ (41) "Mentally ill persons," "persons who are mentally
7 ill," and "the mentally ill" mean persons and conditions defined in
8 subsections (3), (13), ~~((48))~~ (49), and ~~((49))~~ (50) of this
9 section.

10 ~~((41))~~ (42) "Mobile rapid response crisis team" means a team
11 that provides professional on-site community-based intervention such
12 as outreach, de-escalation, stabilization, resource connection, and
13 follow-up support for individuals who are experiencing a behavioral
14 health crisis, that shall include certified peer counselors as a best
15 practice to the extent practicable based on workforce availability,
16 and that meets standards for response times established by the
17 authority.

18 ~~((42))~~ (43) "Recovery" means a process of change through which
19 individuals improve their health and wellness, live a self-directed
20 life, and strive to reach their full potential.

21 ~~((43))~~ (44) "Research-based" means a program or practice that
22 has been tested with a single randomized, or statistically controlled
23 evaluation, or both, demonstrating sustained desirable outcomes; or
24 where the weight of the evidence from a systemic review supports
25 sustained outcomes as described in subsection (30) of this section
26 but does not meet the full criteria for evidence-based.

27 ~~((44))~~ (45) "Residential services" means a complete range of
28 residences and supports authorized by resource management services
29 and which may involve a facility, a distinct part thereof, or
30 services which support community living, for persons who are acutely
31 mentally ill, adults who are chronically mentally ill, children who
32 are severely emotionally disturbed, or adults who are seriously
33 disturbed and determined by the behavioral health administrative
34 services organization or managed care organization to be at risk of
35 becoming acutely or chronically mentally ill. The services shall
36 include at least evaluation and treatment services as defined in
37 chapter 71.05 RCW, acute crisis respite care, long-term adaptive and
38 rehabilitative care, and supervised and supported living services,
39 and shall also include any residential services developed to service
40 persons who are mentally ill in nursing homes, residential treatment

1 facilities, assisted living facilities, and adult family homes, and
2 may include outpatient services provided as an element in a package
3 of services in a supported housing model. Residential services for
4 children in out-of-home placements related to their mental disorder
5 shall not include the costs of food and shelter, except for
6 children's long-term residential facilities existing prior to January
7 1, 1991.

8 ~~((45))~~ (46) "Resilience" means the personal and community
9 qualities that enable individuals to rebound from adversity, trauma,
10 tragedy, threats, or other stresses, and to live productive lives.

11 ~~((46))~~ (47) "Resource management services" mean the planning,
12 coordination, and authorization of residential services and community
13 support services administered pursuant to an individual service plan
14 for: (a) Adults and children who are acutely mentally ill; (b) adults
15 who are chronically mentally ill; (c) children who are severely
16 emotionally disturbed; or (d) adults who are seriously disturbed and
17 determined by a behavioral health administrative services
18 organization or managed care organization to be at risk of becoming
19 acutely or chronically mentally ill. Such planning, coordination, and
20 authorization shall include mental health screening for children
21 eligible under the federal Title XIX early and periodic screening,
22 diagnosis, and treatment program. Resource management services
23 include seven day a week, ~~((twenty-four))~~ 24 hour a day availability
24 of information regarding enrollment of adults and children who are
25 mentally ill in services and their individual service plan to
26 designated crisis responders, evaluation and treatment facilities,
27 and others as determined by the behavioral health administrative
28 services organization or managed care organization, as applicable.

29 ~~((47))~~ (48) "Secretary" means the secretary of the department
30 of health.

31 ~~((48))~~ (49) "Seriously disturbed person" means a person who:

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

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

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

1 (d) Exhibits suicidal preoccupation or attempts; or

2 (e) Is a child diagnosed by a mental health professional, as
3 defined in chapter 71.34 RCW, as experiencing a mental disorder which
4 is clearly interfering with the child's functioning in family or
5 school or with peers or is clearly interfering with the child's
6 personality development and learning.

7 (~~(49)~~) (50) "Severely emotionally disturbed child" or "child
8 who is severely emotionally disturbed" means a child who has been
9 determined by the behavioral health administrative services
10 organization or managed care organization, if applicable, to be
11 experiencing a mental disorder as defined in chapter 71.34 RCW,
12 including those mental disorders that result in a behavioral or
13 conduct disorder, that is clearly interfering with the child's
14 functioning in family or school or with peers and who meets at least
15 one of the following criteria:

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

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

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

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

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

26 (ii) Changes in custodial adult;

27 (iii) Going to, residing in, or returning from any placement
28 outside of the home, for example, (~~(psychiatric)~~) behavioral health
29 hospital, short-term inpatient, residential treatment, group or
30 foster home, or a correctional facility;

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

32 (v) Drug or alcohol abuse; or

33 (vi) Homelessness.

34 (~~(50)~~) (51) "State minimum standards" means minimum
35 requirements established by rules adopted and necessary to implement
36 this chapter by:

37 (a) The authority for:

38 (i) Delivery of mental health and substance use disorder
39 services; and

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

1 (b) The department of health for:

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

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

7 (iii) Residential services.

8 ~~((51))~~ (52) "Substance use disorder" means a cluster of
9 cognitive, behavioral, and physiological symptoms indicating that an
10 individual continues using the substance despite significant
11 substance-related problems. The diagnosis of a substance use disorder
12 is based on a pathological pattern of behaviors related to the use of
13 the substances.

14 ~~((52))~~ (53) "Tribe," for the purposes of this section, means a
15 federally recognized Indian tribe.

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

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

24 (2) The secretary shall establish by rule minimum standards for
25 licensed or certified behavioral health agencies that must, at a
26 minimum, establish: (a) Qualifications for staff providing services
27 directly to persons with mental disorders, substance use disorders,
28 or both; (b) the intended result of each service; and (c) the rights
29 and responsibilities of persons receiving behavioral health services
30 pursuant to this chapter and chapters 71.34 and ~~((chapter))~~ 71.05
31 RCW. The secretary shall provide for deeming of licensed or certified
32 behavioral health agencies as meeting state minimum standards as a
33 result of accreditation by a recognized behavioral health accrediting
34 body recognized and having a current agreement with the department.

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

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

10 ~~(6))~~ No licensed or certified behavioral health agency may
11 advertise or represent itself as a licensed or certified behavioral
12 health agency if approval has not been granted or has been denied,
13 suspended, revoked, or canceled.

14 ~~((7))~~ (4) Licensure or certification as a behavioral health
15 agency is effective for one calendar year from the date of issuance
16 of the license or certification. The license or certification must
17 specify the types of services provided by the behavioral health
18 agency that meet the standards adopted under this chapter. Renewal of
19 a license or certification must be made in accordance with this
20 section for initial approval and in accordance with the standards set
21 forth in rules adopted by the secretary.

22 ~~((8))~~ (5) Licensure or certification as a licensed or certified
23 behavioral health agency must specify the types of services provided
24 that meet the standards adopted under this chapter. Renewal of a
25 license or certification must be made in accordance with this section
26 for initial approval and in accordance with the standards set forth
27 in rules adopted by the secretary.

28 ~~((9))~~ (6) The department shall develop a process by which a
29 provider may obtain dual licensure as an evaluation and treatment
30 facility and secure withdrawal management and stabilization facility.

31 ~~((10))~~ (7) Licensed or certified behavioral health agencies may
32 not provide types of services for which the licensed or certified
33 behavioral health agency has not been certified. Licensed or
34 certified behavioral health agencies may provide services for which
35 approval has been sought and is pending, if approval for the services
36 has not been previously revoked or denied.

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

1 ~~(12) Upon petition of the department and after a hearing held~~
2 ~~upon reasonable notice to the facility, the superior court may issue~~
3 ~~a warrant to an officer or employee of the department authorizing him~~
4 ~~or her to enter and inspect at reasonable times, and examine the~~
5 ~~books and accounts of, any licensed or certified behavioral health~~
6 ~~agency refusing to consent to inspection or examination by the~~
7 ~~department or which the department has reasonable cause to believe is~~
8 ~~operating in violation of this chapter.~~

9 ~~(13))~~ (8) The department shall maintain and periodically publish
10 a current list of licensed or certified behavioral health agencies.

11 ~~((14) Each licensed or certified behavioral health agency shall~~
12 ~~file with the department or the authority upon request, data,~~
13 ~~statistics, schedules, and information the department or the~~
14 ~~authority reasonably requires. A licensed or certified behavioral~~
15 ~~health agency that without good cause fails to furnish any data,~~
16 ~~statistics, schedules, or information as requested, or files~~
17 ~~fraudulent returns thereof, may have its license or certification~~
18 ~~revoked or suspended.~~

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

29 ~~(16) Any settlement agreement entered into between the department~~
30 ~~and licensed or certified behavioral health agencies to resolve~~
31 ~~administrative complaints, license or certification violations,~~
32 ~~license or certification suspensions, or license or certification~~
33 ~~revocations may not reduce the number of violations reported by the~~
34 ~~department unless the department concludes, based on evidence~~
35 ~~gathered by inspectors, that the licensed or certified behavioral~~
36 ~~health agency did not commit one or more of the violations.~~

37 ~~(17) In cases in which a behavioral health agency that is in~~
38 ~~violation of licensing or certification standards attempts to~~
39 ~~transfer or sell the behavioral health agency to a family member, the~~
40 ~~transfer or sale may only be made for the purpose of remedying~~

1 ~~license or certification violations and achieving full compliance~~
2 ~~with the terms of the license or certification. Transfers or sales to~~
3 ~~family members are prohibited in cases in which the purpose of the~~
4 ~~transfer or sale is to avoid liability or reset the number of license~~
5 ~~or certification violations found before the transfer or sale. If the~~
6 ~~department finds that the owner intends to transfer or sell, or has~~
7 ~~completed the transfer or sale of, ownership of the behavioral health~~
8 ~~agency to a family member solely for the purpose of resetting the~~
9 ~~number of violations found before the transfer or sale, the~~
10 ~~department may not renew the behavioral health agency's license or~~
11 ~~certification or issue a new license or certification to the~~
12 ~~behavioral health service provider.~~

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

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

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

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

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

31 (3) Each licensed or certified behavioral health agency shall
32 file with the department or the authority upon request data,
33 statistics, schedules, medical records, and other information the
34 department or the authority reasonably requires. A licensed or
35 certified behavioral health agency that without good cause fails to
36 furnish any data, statistics, schedules, or information as requested,
37 or files fraudulent returns thereof, may have its license or
38 certification revoked or suspended.

1 (4) The authority shall use the data provided in subsection (3)
2 of this section to evaluate each program that admits children to
3 inpatient substance use disorder treatment upon application of their
4 parents. The evaluation shall be done at least once every 12 months.
5 In addition, the authority shall randomly select and review the
6 information on individual children who are admitted on application of
7 the child's parent for the purpose of determining whether the child
8 was appropriately placed into substance use disorder treatment based
9 on an objective evaluation of the child's condition and the outcome
10 of the child's treatment.

11 (5) Any settlement agreement entered into between the department
12 and licensed or certified behavioral health agencies to resolve
13 administrative complaints, license or certification violations,
14 license or certification suspensions, or license or certification
15 revocations may not reduce the number of violations reported by the
16 department unless the department concludes, based on evidence
17 gathered by inspectors, that the licensed or certified behavioral
18 health agency did not commit one or more of the violations.

19 (6) In cases in which a licensed or certified behavioral health
20 agency that is in violation of licensing or certification standards
21 attempts to transfer or sell the behavioral health agency to a family
22 member, the transfer or sale may only be made for the purpose of
23 remedying license or certification violations and achieving full
24 compliance with the terms of the license or certification. Transfers
25 or sales to family members are prohibited in cases in which the
26 purpose of the transfer or sale is to avoid liability or reset the
27 number of license or certification violations found before the
28 transfer or sale. If the department finds that the owner intends to
29 transfer or sell, or has completed the transfer or sale of, ownership
30 of the behavioral health agency to a family member solely for the
31 purpose of resetting the number of violations found before the
32 transfer or sale, the department may not renew the behavioral health
33 agency's license or certification or issue a new license or
34 certification to the behavioral health provider.

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

1 (a) When the department determines the licensed or certified
2 behavioral health agency has previously been subject to an
3 enforcement action for the same or similar type of violation of the
4 same statute or rule, or has been given any previous statement of
5 deficiency that included the same or similar type of violation of the
6 same or similar statute or rule, or when the licensed or certified
7 behavioral health agency failed to correct noncompliance with a
8 statute or rule by a date established or agreed to by the department,
9 the department may impose reasonable conditions on a license.
10 Conditions may include correction within a specified amount of time,
11 training, or hiring a department-approved consultant if the licensed
12 or certified behavioral health agency cannot demonstrate to the
13 department that it has access to sufficient internal expertise.

14 (b) (i) In accordance with the department's authority under RCW
15 43.70.095, the department may assess a civil fine of up to \$3,000 per
16 violation on a licensed or certified behavioral health agency when
17 the department determines the licensed or certified behavioral health
18 agency has previously been subject to an enforcement action for the
19 same or similar type of violation of the same statute or rule, or has
20 been given any previous statement of deficiency that included the
21 same or similar type of violation of the same or similar statute or
22 rule, or when the licensed or certified behavioral health agency
23 failed to correct noncompliance with a statute or rule by a date
24 established or agreed to by the department.

25 (ii) Proceeds from these fines may only be used by the department
26 to provide training or technical assistance to licensed or certified
27 behavioral health agencies and to offset costs associated with
28 licensing, certification, or enforcement of behavioral health
29 agencies.

30 (iii) 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 (iv) 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 (c) The department may suspend new intake or admission of a
38 specific category or categories of individuals receiving behavioral
39 health services as related to the violation by imposing a limited

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

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

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

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

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

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

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

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

36 (i) Prior to imposing a stop placement, the department shall
37 provide a licensed or certified behavioral health agency written
38 notification upon identifying deficient practices or conditions that
39 constitute an immediate jeopardy. The licensed or certified
40 behavioral health agency shall have 24 hours from notification to

1 develop and implement a department-approved plan to correct the
2 deficient practices or conditions that constitute an immediate
3 jeopardy. If the deficient practices or conditions that constitute an
4 immediate jeopardy are not verified by the department as having been
5 corrected within the same 24-hour period, the department may issue
6 the stop placement.

7 (ii) When the department imposes a stop placement, the licensed
8 or certified behavioral health agency may not accept any new
9 individuals receiving behavioral health services until the stop
10 placement is terminated.

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

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

17 (A) The department verifies the violation necessitating the stop
18 placement has been corrected or the department determines that the
19 licensed or certified behavioral health agency has taken intermediate
20 action to address the immediate jeopardy; and

21 (B) The licensed or certified behavioral health agency
22 establishes the ability to maintain correction of the violation
23 previously found deficient.

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

28 (i) Prior to imposing a limited stop service, the department
29 shall provide a licensed or certified behavioral health agency
30 written notification upon identifying deficient practices or
31 conditions that constitute an immediate jeopardy. The licensed or
32 certified behavioral health agency shall have 24 hours from
33 notification to develop and implement a department-approved plan to
34 correct the deficient practices or conditions that constitute an
35 immediate jeopardy. If the deficient practices or conditions that
36 constitute immediate jeopardy are not verified by the department as
37 having been corrected within the same 24-hour period, the department
38 may issue the limited stop service.

39 (ii) When the department imposes a limited stop service, the
40 licensed or certified behavioral health agency may not provide the

1 services in the category or categories subject to the limited stop
2 service to any new or existing individuals, unless otherwise allowed
3 by the department, until the limited stop service is terminated.

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

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

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

14 (B) The licensed or certified behavioral health agency
15 establishes the ability to maintain correction of the violation
16 previously found deficient.

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

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

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

37 (i) When the department makes the suspension of a license or
38 imposition of conditions on a license effective immediately, a
39 licensee is entitled to a show cause hearing before a presiding
40 officer within 14 days of making the request. The licensee must

1 request the show cause hearing within 28 days of receipt of the
2 notice of immediate suspension or immediate imposition of conditions.
3 At the show cause hearing the department has the burden of
4 demonstrating that more probably than not there is an immediate
5 jeopardy.

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

14 (iii) If the presiding officer determines there is no immediate
15 jeopardy, the presiding officer may overturn the immediate suspension
16 or immediate imposition of conditions.

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

20 (v) If the secretary sustains the immediate suspension or
21 immediate imposition of conditions, the licensee may request an
22 expedited full hearing on the merits of the department's action. A
23 full hearing must be provided within 90 days of the licensee's
24 request.

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

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

1 demonstrating that more probably than not the alleged violation, if
2 true, would constitute an immediate jeopardy and the licensee failed
3 to cooperate with the department's investigation.

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

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

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

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

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

30 As used in this chapter:

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

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

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

36 (4) "Charity care" means medically necessary hospital health care
37 rendered to indigent persons when third-party coverage, if any, has
38 been exhausted, to the extent that the persons are unable to pay for

1 the care or to pay deductibles or coinsurance amounts required by a
2 third-party payer, as determined by the department.

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

7 (6) "Third-party coverage" means an obligation on the part of an
8 insurance company, health care service contractor, health maintenance
9 organization, group health plan, government program, tribal health
10 benefits, or health care sharing ministry as defined in 26 U.S.C.
11 Sec. 5000A to pay for the care of covered patients and services, and
12 may include settlements, judgments, or awards actually received
13 related to the negligent acts of others which have resulted in the
14 medical condition for which the patient has received hospital health
15 care service. The pendency of such settlements, judgments, or awards
16 must not stay hospital obligations to consider an eligible patient
17 for charity care.

18 (7) "Special studies" means studies which have not been funded
19 through the department's biennial or other legislative
20 appropriations.

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

23 The commission shall:

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

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

28 (3) Establish the qualifications for licensure of pharmacists or
29 pharmacy interns;

30 (4) Conduct hearings for the revocation or suspension of
31 licenses, permits, registrations, certificates, or any other
32 authority to practice granted by the commission, which hearings may
33 also be conducted by an administrative law judge appointed under
34 chapter 34.12 RCW or a presiding officer designated by the
35 commission. The commission may authorize the secretary, or their
36 designee, to serve as the presiding officer for any disciplinary
37 proceedings of the commission (~~authorized under this chapter~~). The
38 presiding officer shall not vote on or make any final decision in
39 cases pertaining to standards of practice or where clinical expertise

1 is necessary. All functions performed by the presiding officer shall
2 be subject to chapter 34.05 RCW;

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

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

10 (7) Promulgate rules for the dispensing, distribution,
11 wholesaling, and manufacturing of drugs and devices and the practice
12 of pharmacy for the protection and promotion of the public health,
13 safety, and welfare. Violation of any such rules shall constitute
14 grounds for ~~((refusal))~~ denial of an application, assessment of a
15 civil fine, imposition of a limited stop service, imposition of
16 reasonable conditions, suspension, ~~((or))~~ revocation, or modification
17 of licenses or any other authority to practice issued by the
18 commission;

19 (8) Adopt rules establishing and governing continuing education
20 requirements for pharmacists and other licensees applying for renewal
21 of licenses under this chapter;

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

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

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

33 (12) Monitor trends of drug misuse, diversion, and abuse and make
34 periodic reports to disciplinary boards of licensed health care
35 practitioners and education, treatment, and appropriate law
36 enforcement agencies regarding these trends;

37 (13) Enter into written agreements with all other state and
38 federal agencies with any responsibility for controlling drug misuse,
39 diversion, or abuse and with health maintenance organizations, health
40 care service contractors, and health care providers to assist and

1 promote coordination of agencies responsible for ensuring compliance
2 with controlled substances laws and to monitor observance of these
3 laws and cooperation between these agencies. The department of social
4 and health services, the department of labor and industries, and any
5 other state agency including licensure disciplinary boards, shall
6 refer all apparent instances of over-prescribing by practitioners and
7 all apparent instances of legend drug overuse to the department. The
8 department shall also encourage such referral by health maintenance
9 organizations, health service contractors, and health care providers;

10 (14) Whenever the workload of the commission requires, request
11 that the secretary appoint pro tempore members. While serving as
12 members pro tempore persons have all the powers, duties, and
13 immunities, and are entitled to the emoluments, including travel
14 expenses, of the commission.

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

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

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

22 (2) "Business licensing system" means the mechanism established
23 by chapter 19.02 RCW by which business licenses, endorsed for
24 individual state-issued licenses, are issued and renewed utilizing a
25 business license application and a business license expiration date
26 common to each renewable license endorsement.

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

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

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

38 (6) "Compounding" means the act of combining two or more
39 ingredients in the preparation of a prescription. Reconstitution and

1 mixing of (a) sterile products according to federal food and drug
2 administration-approved labeling does not constitute compounding if
3 prepared pursuant to a prescription and administered immediately or
4 in accordance with package labeling, and (b) nonsterile products
5 according to federal food and drug administration-approved labeling
6 does not constitute compounding if prepared pursuant to a
7 prescription.

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

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

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

15 (10) "Device" means instruments, apparatus, and contrivances,
16 including their components, parts, and accessories, intended (a) for
17 use in the diagnosis, cure, mitigation, treatment, or prevention of
18 disease in human beings or other animals, or (b) to affect the
19 structure or any function of the body of human beings or other
20 animals.

21 (11) "Dispense" means the interpretation of a prescription or
22 order for a drug, biological, or device and, pursuant to that
23 prescription or order, the proper selection, measuring, compounding,
24 labeling, or packaging necessary to prepare that prescription or
25 order for delivery.

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

28 (13) "Drug" and "devices" do not include surgical or dental
29 instruments or laboratory materials, gas and oxygen, therapy
30 equipment, X-ray apparatus or therapeutic equipment, their component
31 parts or accessories, or equipment, instruments, apparatus, or
32 contrivances used to render such articles effective in medical,
33 surgical, or dental treatment, or for use or consumption in or for
34 mechanical, industrial, manufacturing, or scientific applications or
35 purposes. "Drug" also does not include any article or mixture covered
36 by the Washington pesticide control act (chapter 15.58 RCW), as
37 enacted or hereafter amended, nor medicated feed intended for and
38 used exclusively as a feed for animals other than human beings.

39 (14) "Drugs" means:

1 (a) Articles recognized in the official United States
2 pharmacopoeia or the official homeopathic pharmacopoeia of the United
3 States;

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

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

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

12 (15) "Health care entity" means an organization that provides
13 health care services in a setting that is not otherwise licensed by
14 the state to acquire or possess legend drugs. Health care entity
15 includes a freestanding outpatient surgery center, a residential
16 treatment facility, and a freestanding cardiac care center. "Health
17 care entity" does not include an individual practitioner's office or
18 a multipractitioner clinic, regardless of ownership, unless the owner
19 elects licensure as a health care entity. "Health care entity" also
20 does not include an individual practitioner's office or
21 multipractitioner clinic identified by a hospital on a pharmacy
22 application or renewal pursuant to RCW 18.64.043.

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

26 (17) "Institutional facility" means any organization whose
27 primary purpose is to provide a physical environment for patients to
28 obtain health care services including, but not limited to, services
29 in a hospital, long-term care facility, hospice program, mental
30 health facility, drug abuse treatment center, residential
31 habilitation center, or a local, state, or federal correction
32 facility.

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

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

1 (20) "Long-term care facility" means a nursing home licensed
2 under chapter 18.51 RCW, an assisted living facility licensed under
3 chapter 18.20 RCW, or an adult family home licensed under chapter
4 70.128 RCW.

5 (21) "Manufacture" means the production, preparation,
6 propagation, compounding, or processing of a drug or other substance
7 or device or the packaging or repackaging of such substance or
8 device, or the labeling or relabeling of the commercial container of
9 such substance or device, but does not include the activities of a
10 practitioner who, as an incident to his or her administration or
11 dispensing such substance or device in the course of his or her
12 professional practice, personally prepares, compounds, packages, or
13 labels such substance or device. "Manufacture" includes the
14 distribution of a licensed pharmacy compounded drug product to other
15 state licensed persons or commercial entities for subsequent resale
16 or distribution, unless a specific product item has approval of the
17 commission. The term does not include:

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

22 (b) The practice of a licensed pharmacy when repackaging
23 commercially available medication in small, reasonable quantities for
24 a practitioner legally authorized to prescribe the medication for
25 office use only;

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

30 (d) The delivery of finished and appropriately labeled compounded
31 products dispensed pursuant to a valid prescription to alternate
32 delivery locations, other than the patient's residence, when
33 requested by the patient, or the prescriber to administer to the
34 patient, or to another licensed pharmacy to dispense to the patient.

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

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

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

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

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

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

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

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

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

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

33 (32) "Shared pharmacy services" means a system that allows a
34 participating pharmacist or pharmacy pursuant to a request from
35 another participating pharmacist or pharmacy to process or fill a
36 prescription or drug order, which may include but is not necessarily
37 limited to preparing, packaging, labeling, data entry, compounding
38 for specific patients, dispensing, performing drug utilization
39 reviews, conducting claims adjudication, obtaining refill

1 authorizations, reviewing therapeutic interventions, or reviewing
2 chart orders.

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

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

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

14 (36) "License," "licensing," and "licensure" shall be deemed
15 equivalent to the terms "approval," "credential," "certificate,"
16 "certification," "permit," and "registration" and an "exemption"
17 issued under chapter 69.50 RCW.

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

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

27 NEW SECTION. Sec. 31. A new section is added to chapter 18.64
28 RCW to read as follows:

29 This section governs the denial of an application for a license
30 or the suspension, revocation, or modification of a license issued by
31 the commission. This section does not govern actions taken under
32 chapter 18.130 RCW.

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

37 (2) The commission shall give written notice of revocation,
38 suspension, or modification of a license to the licensee or its

1 agent. The form, contents, and service of the notice shall comply
2 with this chapter and the procedural rules adopted by the commission.

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

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

10 (b) The commission may make the date the action is effective
11 sooner than 28 days after receipt when necessary to protect the
12 public health, safety, or welfare. When the commission does so, it
13 shall state the effective date and the reasons supporting the
14 effective date in the written notice given to the licensee or its
15 agent.

16 (4) Except for licensees suspended for noncompliance with a child
17 support order under chapter 74.20A RCW, a license applicant or
18 licensee who is aggrieved by a commission denial, revocation,
19 suspension, or modification has the right to an adjudicative
20 proceeding. The proceeding is governed by the administrative
21 procedure act, chapter 34.05 RCW. The form, contents, and service of
22 the application for an adjudicative hearing must comply with this
23 chapter and with the procedural rules adopted by the commission and
24 must be served on and received by the commission within 28 days of
25 the applicant or licensee receiving the notice.

26 (5) (a) If the commission gives a licensee 28 or more days' notice
27 of revocation, suspension, or modification and the licensee files an
28 appeal before its effective date, the commission shall not implement
29 the adverse action until the final order has been entered. The
30 commission may implement part or all of the adverse action while the
31 proceedings are pending if the appellant causes an unreasonable delay
32 in the proceeding, if the circumstances change so that implementation
33 is in the public interest, or for other good cause.

34 (b) If the commission gives a licensee less than 28 days' notice
35 of revocation, suspension, or modification and the licensee timely
36 files a sufficient appeal, the commission may implement the adverse
37 action on the effective date stated in the notice. The commission may
38 stay implementation of part or all of the adverse action while the
39 proceedings are pending if staying implementation is in the public
40 interest or for other good cause.

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

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

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

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

13 (2) The civil fine is due and payable 28 days after receipt by
14 the licensee or its agent. The commission may make the date the fine
15 is due later than 28 days after receipt by the licensee or its agent.
16 When the commission does so, it shall state the date the fine is due
17 in the written notice given to the licensee against whom it assesses
18 the fine.

19 (3) The licensee against whom the commission assesses a civil
20 fine has the right to an adjudicative proceeding. The proceeding is
21 governed by the administrative procedure act, chapter 34.05 RCW. The
22 form, contents, and service of the application for an adjudicative
23 hearing must comply with this chapter and the procedural rules
24 adopted by the commission and must be served on and received by the
25 commission within 28 days of the licensee receiving the notice.

26 NEW SECTION. **Sec. 33.** A new section is added to chapter 18.64
27 RCW to read as follows:

28 This section does not govern actions taken under chapter 18.130
29 RCW.

30 (1) The commission is authorized to take any of the actions
31 identified in this section against licenses, registrations, permits,
32 or other credentials or approvals issued by the commission under this
33 chapter and chapters 18.64A, 69.38, 69.41, 69.43, 69.45, and 69.50
34 RCW in any case in which it finds the licensee has failed or refused
35 to comply with any state or federal statute or administrative rule
36 regulating the license in question including, but not limited to,
37 Title 69 RCW, this chapter, chapter 18.64A RCW, and administrative

1 rules adopted by the commission, except as otherwise limited in this
2 section.

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

18 (b)(i) In accordance with the commission's authority under
19 section 32 of this act, the commission may assess a civil fine of up
20 to \$10,000 per violation, not to exceed a total fine of \$1,000,000,
21 on a licensee when the commission determines the licensee has
22 previously been subject to an enforcement action for the same or
23 similar type of violation of the same or similar statute or rule, or
24 has been given any previous statement of deficiency that included the
25 same or similar type of violation of the same or similar statute or
26 rule, or when a licensee failed to correct noncompliance with a
27 statute or rule by a date established or agreed to by the commission.

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

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

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

35 (B) The operation size of the licensee.

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

39 (c) The commission may restrict the ability of a licensee to
40 engage in a specific service related to a violation by imposing a

1 limited stop service. This may only be done if the commission finds
2 that noncompliance results in immediate jeopardy.

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

13 (ii) When the commission imposes a limited stop service, the
14 licensee may not provide the services subject to the limited stop
15 service, unless otherwise allowed by the commission, until the
16 limited stop service order is terminated.

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

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

22 (A) The commission verifies the violation necessitating the
23 limited stop service has been corrected or the commission determines
24 that the licensee has taken intermediate action to address the
25 immediate jeopardy; and

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

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

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

36 (b) When the commission determines a licensee's noncompliance
37 results in immediate jeopardy, the commission may make the imposition
38 of conditions on a licensee, a limited stop service, or the
39 suspension or modification of a license effective immediately upon

1 receipt of the notice by the licensee, pending any adjudicative
2 proceeding.

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

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

20 (iii) If the hearing panel of the commission determines there is
21 no immediate jeopardy, the hearing panel of the commission may
22 overturn the immediate suspension or modification of the license or
23 immediate imposition of conditions.

24 (iv) If the hearing panel of the commission determines there is
25 immediate jeopardy, the immediate suspension or modification of the
26 license or immediate imposition of conditions shall remain in effect
27 pending a full hearing.

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

33 (3) The commission may take action under subsection (1) of this
34 section against a nonresident pharmacy for failure to comply with any
35 requirement of RCW 18.64.350 through 18.64.400, conduct that caused
36 injury to a resident of this state, or conduct that resulted in
37 adverse action against the nonresident pharmacy by a federal agency
38 or the regulatory or licensing agency in the state in which the
39 nonresident pharmacy is located.

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

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

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

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

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

38 (e) If the presiding officer sustains the immediate action for
39 failure to cooperate, the licensee may request an expedited full

1 hearing on the merits of the commission's action. A full hearing must
2 be provided within 90 days of the licensee's request.

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

5 This section does not govern actions taken under chapter 18.130
6 RCW.

7 (1) A licensee whose license has been suspended under this
8 chapter may petition the commission for reinstatement after an
9 interval as determined by the commission in the order. The commission
10 shall hold hearings on the petition. The commission may deny the
11 petition or may order reinstatement of the licensee's license. The
12 commission may impose terms and conditions in the order of
13 reinstatement.

14 (2) A licensee whose license has been suspended for noncompliance
15 with a support order or visitation order under RCW 74.20A.320 may
16 petition for reinstatement at any time by providing the commission a
17 release issued by the department of social and health services
18 stating that the person is in compliance with the order. If the
19 person has continued to meet all other requirements for reinstatement
20 during the suspension, the commission shall automatically reissue the
21 person's license upon receipt of the release, and payment of a
22 reinstatement fee, if any.

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

25 The uniform disciplinary act, chapter 18.130 RCW, governs
26 unlicensed practice of persons required to obtain a license under
27 this chapter.

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

30 (1) Any itinerant vendor or any peddler of any nonprescription
31 drug or preparation for the treatment of disease or injury, shall pay
32 a registration fee determined by the secretary on a date to be
33 determined by the secretary as provided in RCW 43.70.250 and
34 43.70.280. The department may issue a registration to such vendor on
35 an approved application made to the department.

36 (2) Any itinerant vendor or peddler who shall vend or sell, or
37 offer to sell to the public any such nonprescription drug or

1 preparation without having registered to do so as provided in this
2 section, is guilty of a misdemeanor and each sale or offer to sell
3 shall constitute a separate offense.

4 (3) In event the registration fee remains unpaid on the date due,
5 no renewal or new registration shall be issued except upon compliance
6 with administrative procedures, administrative requirements, and fees
7 determined as provided in RCW 43.70.250 and 43.70.280. This
8 registration shall not authorize the sale of legend drugs or
9 controlled substances.

10 (4) An itinerant vendor may purchase products containing any
11 detectable quantity of ephedrine, pseudoephedrine, or
12 phenylpropanolamine, or their salts, isomers, or salts of isomers
13 only from a wholesaler licensed by the department under RCW 18.64.046
14 or from a manufacturer licensed by the department under RCW
15 18.64.045. The commission shall issue a warning to an itinerant
16 vendor who violates this subsection, and may suspend or revoke the
17 registration of the vendor for a subsequent violation.

18 (5) An itinerant vendor who has purchased products containing any
19 detectable quantity of ephedrine, pseudoephedrine, or
20 phenylpropanolamine, or their salts, isomers, or salts of isomers, in
21 a suspicious transaction as defined in RCW 69.43.035, is subject to
22 the following requirements:

23 (a) The itinerant vendor may not sell any quantity of ephedrine,
24 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
25 salts of isomers, if the total monthly sales of these products exceed
26 ~~((ten))~~ 10 percent of the vendor's total prior monthly sales of
27 nonprescription drugs in March through October. In November through
28 February, the vendor may not sell any quantity of ephedrine,
29 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or
30 salts of isomers, if the total monthly sales of these products exceed
31 ~~((twenty))~~ 20 percent of the vendor's total prior monthly sales of
32 nonprescription drugs. For purposes of this section, "monthly sales"
33 means total dollars paid by buyers. ~~((The commission may suspend or
34 revoke the registration of an itinerant vendor who violates this
35 subsection.))~~

36 (b) The itinerant vendor shall maintain inventory records of the
37 receipt and disposition of nonprescription drugs, utilizing existing
38 inventory controls if an auditor or investigator can determine
39 compliance with (a) of this subsection, and otherwise in the form and
40 manner required by the commission. The records must be available for

1 inspection by the commission or any law enforcement agency and must
2 be maintained for two years. The commission may suspend or revoke the
3 registration of an itinerant vendor who violates this subsection. For
4 purposes of this subsection, "disposition" means the return of
5 product to the wholesaler or distributor.

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

8 ~~((The commission shall have the power to refuse, suspend, or~~
9 ~~revoke the license of any manufacturer, wholesaler, pharmacy,~~
10 ~~shopkeeper, itinerant vendor, peddler, poison distributor, health~~
11 ~~care entity, or precursor chemical distributor)) In addition to any
12 other grounds, the commission may take action against a license
13 issued under this chapter and chapters 18.64A, 69.38, 69.41, 69.43,
14 69.45, and 69.50 RCW, except nonresident pharmacies, upon proof that:~~

15 (1) The license was procured through fraud, misrepresentation, or
16 deceit;

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

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

24 (1)(a) The commission shall adopt, in accordance with chapter
25 34.05 RCW, rules fixing the classification and qualifications and the
26 educational and training requirements for persons who may be employed
27 as pharmacy technicians or who may be enrolled in any pharmacy
28 technician training program. Such rules shall provide that:

29 (i) Licensed pharmacists shall supervise the training of pharmacy
30 technicians;

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

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

36 (b) Such rules may include successful completion of examinations
37 for applicants for pharmacy technician certificates. If such
38 examination rules are adopted, the commission shall prepare or

1 determine the nature of, and supervise the grading of the
2 examinations. The commission may approve an examination prepared or
3 administered by a private testing agency or association of licensing
4 authorities.

5 (2) The commission may disapprove or revoke approval of any
6 training program for failure to conform to commission rules. In the
7 case of the disapproval or revocation of approval of a training
8 program by the commission, a hearing shall be conducted in accordance
9 with ~~((RCW 18.64.160))~~ section 31 of this act, and appeal may be
10 taken in accordance with the administrative procedure act, chapter
11 34.05 RCW.

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

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

16 Any pharmacy licensed in this state may apply to the commission
17 for permission to use the services of pharmacy ancillary personnel.
18 The application shall be accompanied by a fee and shall comply with
19 administrative procedures and administrative requirements set
20 pursuant to RCW 43.70.250 and 43.70.280, shall detail the manner and
21 extent to which the pharmacy ancillary personnel would be used and
22 supervised, and shall provide other information in such form as the
23 secretary may require.

24 The commission may approve or reject such applications. In
25 addition, the commission may modify the proposed utilization of
26 pharmacy ancillary personnel and approve the application as modified.
27 Whenever it appears to the commission that pharmacy ancillary
28 personnel are being utilized in a manner inconsistent with the
29 approval granted, the commission may withdraw such approval. In the
30 event a hearing is requested upon the rejection of an application, or
31 upon the withdrawal of approval, a hearing shall be conducted in
32 accordance with ~~((chapter 18.64 RCW, as now or hereafter amended,))~~
33 section 31 of this act and appeal may be taken in accordance with the
34 administrative procedure act, chapter 34.05 RCW.

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

37 Chapter 18.64 RCW governs the denial of licenses and the
38 discipline of persons licensed under this chapter. The uniform

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

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

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

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

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

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

17 (3) Specific drug samples which are distributed in this state in
18 violation of this chapter, following notification by the commission,
19 shall be subject to seizure following the procedures set out in RCW
20 69.41.060.

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

23 The uniform disciplinary act, chapter 18.130 RCW, governs
24 unlicensed practice of persons required to obtain a registration
25 under this chapter.

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

28 ~~((The pharmacy quality assurance commission shall have the power
29 to refuse, suspend, or revoke the permit of any manufacturer or
30 wholesaler))~~ In addition to any other grounds, the pharmacy quality
31 assurance commission may take action against a permit issued under
32 this chapter upon proof that:

33 (1) The permit was procured through fraud, misrepresentation, or
34 deceit;

35 (2) The permittee has violated or has permitted any employee to
36 violate any of the laws of this state relating to drugs, controlled
37 substances, cosmetics, or nonprescription drugs, or has violated any

1 of the rules and regulations of the pharmacy quality assurance
2 commission.

3 **Sec. 44.** RCW 69.43.140 and 2013 c 19 s 78 are each amended to
4 read as follows:

5 (1) (~~In addition to the other penalties provided for in this~~
6 ~~chapter or in chapter 18.64 RCW, the pharmacy quality assurance~~
7 ~~commission may impose a civil penalty, not to exceed ten thousand~~
8 ~~dollars for each violation, on any licensee or registrant who has~~
9 ~~failed to comply with this chapter or the rules adopted under this~~
10 ~~chapter. In the case of a continuing violation, every day the~~
11 ~~violation continues shall be considered a separate violation))
12 Chapter 18.64 RCW governs the denial of permits and the discipline of
13 permits issued under this chapter. The uniform disciplinary act,
14 chapter 18.130 RCW, governs unlicensed practice of persons required
15 to obtain a permit under this chapter.~~

16 (2) The pharmacy quality assurance commission may waive (~~the~~
17 ~~suspension or revocation of a license or registration)) action taken
18 under chapter 18.64 RCW against a permit issued under this chapter
19 (~~18.64 RCW, or waive any civil penalty under this chapter,~~) if the
20 (~~licensee or registrant~~) permittee establishes that he or she acted
21 in good faith to prevent violations of this chapter, and the
22 violation occurred despite the licensee's or registrant's exercise of
23 due diligence. In making such a determination, the pharmacy quality
24 assurance commission may consider evidence that an employer trained
25 employees on how to sell, transfer, or otherwise furnish substances
26 specified in RCW 69.43.010(1) in accordance with applicable laws.~~

27 **Sec. 45.** RCW 69.50.302 and 2013 c 19 s 98 are each amended to
28 read as follows:

29 (~~(a) [(1)]~~) (1) Every person who manufactures, distributes, or
30 dispenses any controlled substance within this state or who proposes
31 to engage in the manufacture, distribution, or dispensing of any
32 controlled substance within this state, shall obtain annually a
33 registration issued by the (~~department~~) commission in accordance
34 with the commission's rules.

35 (~~(b) [(2)]~~) (2) A person registered by the (~~department~~)
36 commission under this chapter to manufacture, distribute, dispense,
37 or conduct research with controlled substances may possess,
38 manufacture, distribute, dispense, or conduct research with those

1 substances to the extent authorized by the registration and in
2 conformity with this Article.

3 ~~((e) [(3)])~~ (3) The following persons need not register and may
4 lawfully possess controlled substances under this chapter:

5 ~~((1) [(a)])~~ (a) An agent or employee of any registered
6 manufacturer, distributor, or dispenser of any controlled substance
7 if the agent or employee is acting in the usual course of business or
8 employment. This exemption shall not include any agent or employee
9 distributing sample controlled substances to practitioners without an
10 order;

11 ~~((2) [(b)])~~ (b) A common or contract carrier or warehouse
12 operator, or an employee thereof, whose possession of any controlled
13 substance is in the usual course of business or employment;

14 ~~((3) [(c)])~~ (c) An ultimate user or a person in possession of
15 any controlled substance pursuant to a lawful order of a practitioner
16 or in lawful possession of a substance included in Schedule V.

17 ~~((d) [(4)])~~ (4) The commission may waive by rule the
18 requirement for registration of certain manufacturers, distributors,
19 or dispensers upon finding it consistent with the public health and
20 safety. Personal practitioners licensed or registered in the state of
21 Washington under the respective professional licensing acts shall not
22 be required to be registered under this chapter unless the specific
23 exemption is denied pursuant to ~~((RCW 69.50.305))~~ sections 31 and 33
24 of this act for violation of any provisions of this chapter.

25 ~~((e) [(5)])~~ (5) A separate registration is required at each
26 principal place of business or professional practice where the
27 applicant manufactures, distributes, or dispenses controlled
28 substances.

29 ~~((f) [(6)])~~ (6) The department, at the direction of the
30 commission, may inspect the establishment of a registrant or
31 applicant for registration in accordance with rules adopted by the
32 commission.

33 **Sec. 46.** RCW 69.50.303 and 2013 c 19 s 99 are each amended to
34 read as follows:

35 ~~((a) [(1)])~~ (1) The ~~((department))~~ commission shall register an
36 applicant to manufacture ~~((or)),~~ distribute, dispense, or conduct
37 research with controlled substances included in RCW 69.50.204,
38 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless the commission
39 determines that the issuance of that registration would be

1 inconsistent with the public interest. In determining the public
2 interest, the commission shall consider the following factors:

3 ~~((1) [(a)])~~ (a) maintenance of effective controls against
4 diversion of controlled substances into other than legitimate
5 medical, scientific, research, or industrial channels;

6 ~~((2) [(b)])~~ (b) compliance with applicable state and local law;

7 ~~((3) [(c)])~~ (c) promotion of technical advances in the art of
8 manufacturing controlled substances and the development of new
9 substances;

10 ~~((4) [(d)])~~ (d) any convictions of the applicant under any laws
11 of another country or federal or state laws relating to any
12 controlled substance;

13 ~~((5) [(e)])~~ (e) past experience in the manufacture or
14 distribution of controlled substances, and the existence in the
15 applicant's establishment of effective controls against diversion of
16 controlled substances into other than legitimate medical, scientific,
17 research, or industrial channels;

18 ~~((6) [(f)])~~ (f) furnishing by the applicant of false or
19 fraudulent material in any application filed under this chapter;

20 ~~((7) [(g)])~~ (g) suspension or revocation of the applicant's
21 federal registration to manufacture, distribute, or dispense
22 controlled substances as authorized by federal law; and

23 ~~((8) [(h)])~~ (h) any other factors relevant to and consistent
24 with the public health and safety.

25 ~~((b) [(2)])~~ (2) Registration under subsection ~~((a) [(1)])~~ (1)
26 of this section does not entitle a registrant to manufacture or
27 distribute controlled substances included in Schedule I or II other
28 than those specified in the registration.

29 ~~((c) [(3)])~~ (3) Practitioners must be registered, or exempted
30 under RCW 69.50.302 ~~((d) [(4)])~~ (4), to dispense any controlled
31 substances or to conduct research with controlled substances included
32 in Schedules II through V if they are authorized to dispense or
33 conduct research under the law of this state. The commission need not
34 require separate registration under this Article for practitioners
35 engaging in research with nonnarcotic substances included in
36 Schedules II through V where the registrant is already registered
37 under this Article in another capacity. Practitioners registered
38 under federal law to conduct research with substances included in
39 Schedule I may conduct research with substances included in Schedule

1 I within this state upon furnishing the commission evidence of that
2 federal registration.

3 ~~((d) [(4)])~~ (4) A manufacturer or distributor registered under
4 the federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq.,
5 may submit a copy of the federal application as an application for
6 registration as a manufacturer or distributor under this section. The
7 commission may require a manufacturer or distributor to submit
8 information in addition to the application for registration under the
9 federal act.

10 **Sec. 47.** RCW 69.50.304 and 2013 c 19 s 100 are each amended to
11 read as follows:

12 ~~((a) [(1) A])~~ (1) This chapter and chapter 18.64 RCW govern the
13 denial of registrations and the discipline of registrations issued
14 under RCW 69.50.303. The uniform disciplinary act, chapter 18.130
15 RCW, governs unlicensed practice of persons required to obtain a
16 registration under this chapter.

17 (2) In addition to any other grounds, the commission may take
18 action against the registration, or exemption from registration,
19 under RCW 69.50.303 to manufacture, distribute, ~~((e))~~ dispense, or
20 conduct research with a controlled substance ~~((may be suspended or~~
21 revoked by the commission)) upon finding that the registrant has:

22 ~~((1) [(a)])~~ (a) furnished false or fraudulent material
23 information in any application filed under this chapter;

24 ~~((2) [(b)])~~ (b) been convicted of a felony under any state or
25 federal law relating to any controlled substance;

26 ~~((3) [(c)])~~ (c) had the registrant's federal registration
27 suspended or revoked and is no longer authorized by federal law to
28 manufacture, distribute, ~~((e))~~ dispense, or conduct research with
29 controlled substances; or

30 ~~((4) [(d)])~~ (d) committed acts that would render registration
31 under RCW 69.50.303 inconsistent with the public interest as
32 determined under that section.

33 ~~((b) [(2)])~~ (3) The commission may limit revocation or
34 suspension of a registration to the particular controlled substance
35 or schedule of controlled substances, with respect to which grounds
36 for revocation or suspension exist.

37 ~~((e) [(3)])~~ (4) If the commission suspends or revokes a
38 registration, all controlled substances owned or possessed by the
39 registrant at the time of suspension or the effective date of the

1 revocation order may be placed under seal. No disposition may be made
2 of substances under seal until the time for taking an appeal has
3 elapsed or until all appeals have been concluded unless a court, upon
4 application, orders the sale of perishable substances and the deposit
5 of the proceeds of the sale with the court. Upon a revocation order
6 becoming final, all controlled substances may be forfeited to the
7 state.

8 ~~((d) — [(4)])~~ (5) The ~~((department))~~ commission may seize or
9 place under seal any controlled substance owned or possessed by a
10 registrant whose registration has expired or who has ceased to
11 practice or do business in the manner contemplated by the
12 registration. The controlled substance must be held for the benefit
13 of the registrant or the registrant's successor in interest. The
14 ~~((department))~~ commission shall notify a registrant, or the
15 registrant's successor in interest, who has any controlled substance
16 seized or placed under seal, of the procedures to be followed to
17 secure the return of the controlled substance and the conditions
18 under which it will be returned. The ~~((department))~~ commission may
19 not dispose of any controlled substance seized or placed under seal
20 under this subsection until the expiration of ~~((one hundred eighty))~~
21 180 days after the controlled substance was seized or placed under
22 seal. The costs incurred by the ~~((department))~~ commission in seizing,
23 placing under seal, maintaining custody, and disposing of any
24 controlled substance under this subsection may be recovered from the
25 registrant, any proceeds obtained from the disposition of the
26 controlled substance, or from both. Any balance remaining after the
27 costs have been recovered from the proceeds of any disposition must
28 be delivered to the registrant or the registrant's successor in
29 interest.

30 ~~((e) — [(5)])~~ (6) The ~~((department))~~ commission shall promptly
31 notify the drug enforcement administration of all orders restricting,
32 suspending, or revoking registration and all forfeitures of
33 controlled substances.

34 **Sec. 48.** RCW 69.50.310 and 2013 c 19 s 104 are each amended to
35 read as follows:

36 On and after September 21, 1977, a humane society and animal
37 control agency may apply to the ~~((department))~~ commission for
38 registration pursuant to the applicable provisions of this chapter
39 for the sole purpose of being authorized to purchase, possess, and

1 administer sodium pentobarbital to euthanize injured, sick, homeless,
2 or unwanted domestic pets and animals. Any agency so registered shall
3 not permit a person to administer sodium pentobarbital unless such
4 person has demonstrated adequate knowledge of the potential hazards
5 and proper techniques to be used in administering this drug.

6 The ~~((department))~~ commission may issue a limited registration to
7 carry out the provisions of this section. ~~((The commission shall
8 promulgate such rules as it deems necessary to insure strict
9 compliance with the provisions of this section. The commission may
10 suspend or revoke registration upon determination that the person
11 administering sodium pentobarbital has not demonstrated adequate
12 knowledge as herein provided. This authority is granted in addition
13 to any other power to suspend or revoke registration as provided by
14 law.))~~ Chapter 18.64 RCW governs the denial of licenses and the
15 discipline of registrations issued under this chapter. The uniform
16 disciplinary act, chapter 18.130 RCW, governs unlicensed practice of
17 persons required to obtain a registration under this chapter.

18 **Sec. 49.** RCW 69.50.320 and 2013 c 19 s 106 are each amended to
19 read as follows:

20 The department of fish and wildlife may apply to the ~~((department
21 of health))~~ commission for registration pursuant to the applicable
22 provisions of this chapter to purchase, possess, and administer
23 controlled substances for use in chemical capture programs. The
24 department of fish and wildlife must not permit a person to
25 administer controlled substances unless the person has demonstrated
26 adequate knowledge of the potential hazards and proper techniques to
27 be used in administering controlled substances.

28 The ~~((department of health))~~ commission may issue a limited
29 registration to carry out the provisions of this section. The
30 commission may adopt rules to ensure strict compliance with the
31 provisions of this section. The commission, in consultation with the
32 department of fish and wildlife, must by rule add or remove
33 additional controlled substances for use in chemical capture
34 programs. ~~((The))~~ Chapter 18.64 RCW governs the denial of licenses
35 and the discipline of registrations issued under this chapter. The
36 uniform disciplinary act, chapter 18.130 RCW, governs unlicensed
37 practice of persons required to obtain a registration under this
38 chapter. In addition to any other grounds, the commission ~~((shall))~~
39 may suspend or revoke a registration issued under this chapter upon

1 determination that the person administering controlled substances has
2 not demonstrated adequate knowledge as required by this section.
3 (~~This authority is granted in addition to any other power to suspend~~
4 ~~or revoke registration as provided by law.~~)

5 **Sec. 50.** RCW 69.41.080 and 2013 c 19 s 57 are each amended to
6 read as follows:

7 Humane societies and animal control agencies registered with the
8 (~~pharmacy quality assurance~~) commission under chapter 69.50 RCW and
9 authorized to euthanize animals may purchase, possess, and administer
10 approved legend drugs for the sole purpose of sedating animals prior
11 to euthanasia, when necessary, and for use in chemical capture
12 programs. For the purposes of this section, "approved legend drugs"
13 means those legend drugs designated by the commission by rule as
14 being approved for use by such societies and agencies for animal
15 sedating or capture and does not include any substance regulated
16 under chapter 69.50 RCW. Any society or agency so registered shall
17 not permit persons to administer any legend drugs unless such person
18 has demonstrated to the satisfaction of the commission adequate
19 knowledge of the potential hazards involved in and the proper
20 techniques to be used in administering the drugs.

21 The commission shall promulgate rules to regulate the purchase,
22 possession, and administration of legend drugs by such societies and
23 agencies and to insure strict compliance with the provisions of this
24 section. Such rules shall require that the storage, inventory
25 control, administration, and recordkeeping for approved legend drugs
26 conform to the standards adopted by the commission under chapter
27 69.50 RCW to regulate the use of controlled substances by such
28 societies and agencies. (~~The~~) Chapter 18.64 RCW governs the denial
29 of licenses and the discipline of registrations issued under chapter
30 69.50 RCW. The uniform disciplinary act, chapter 18.130 RCW, governs
31 unlicensed practice of persons required to obtain a registration
32 under this chapter. In addition to any other grounds, the commission
33 may suspend or revoke a registration issued under chapter 69.50 RCW
34 upon a determination by the commission that the person administering
35 legend drugs has not demonstrated adequate knowledge as herein
36 provided. (~~This authority is granted in addition to any other power~~
37 to suspend or revoke a registration as provided by law.)

1 NEW SECTION. **Sec. 51.** The following acts or parts of acts are
2 each repealed:
3 (1) RCW 18.64.200 (Refusal, suspension, and revocation of other
4 licenses—Appeal procedure) and 2013 c 19 s 15, 1963 c 38 s 11, & 1909
5 c 213 s 11;
6 (2) RCW 18.64.390 (Nonresident pharmacies—Violations—Penalties)
7 and 2013 c 19 s 23 & 1991 c 87 s 5; and
8 (3) RCW 69.50.305 (Procedure for denial, suspension, or
9 revocation of registration) and 2013 c 19 s 101 & 1971 ex.s. c 308 s
10 69.50.305.

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