

CERTIFICATION OF ENROLLMENT

SENATE BILL 6178

68th Legislature
2024 Regular Session

Passed by the Senate February 6, 2024
Yeas 49 Nays 0

President of the Senate

Passed by the House February 27, 2024
Yeas 95 Nays 0

**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 **SENATE BILL 6178** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 6178

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senators Randall, Torres, Nobles, Trudeau, Kuderer, Dhingra, Saldaña, Shewmake, and C. Wilson

Read first time 01/11/24. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to aligning the legend drug act to reflect the
2 prescriptive authority for licensed midwives; and amending RCW
3 69.41.010 and 69.41.030.

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

5 **Sec. 1.** RCW 69.41.010 and 2023 c 460 s 21 are each amended to
6 read as follows:

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

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

12 (a) A practitioner; or

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

15 (2) "Commission" means the pharmacy quality assurance commission.

16 (3) "Community-based care settings" include: Community
17 residential programs for persons with developmental disabilities,
18 certified by the department of social and health services under
19 chapter 71A.12 RCW; adult family homes licensed under chapter 70.128
20 RCW; and assisted living facilities licensed under chapter 18.20 RCW.

1 Community-based care settings do not include acute care or skilled
2 nursing facilities.

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

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

7 (6) "Dispense" means the interpretation of a prescription or
8 order for a legend drug and, pursuant to that prescription or order,
9 the proper selection, measuring, compounding, labeling, or packaging
10 necessary to prepare that prescription or order for delivery.

11 (7) "Dispenser" means a practitioner who dispenses.

12 (8) "Distribute" means to deliver other than by administering or
13 dispensing a legend drug.

14 (9) "Distributor" means a person who distributes.

15 (10) "Drug" means:

16 (a) Substances recognized as drugs in the official United States
17 pharmacopoeia, official homeopathic pharmacopoeia of the United
18 States, or official national formulary, or any supplement to any of
19 them;

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

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

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

29 (11) "Electronic communication of prescription information" means
30 the transmission of a prescription or refill authorization for a drug
31 of a practitioner using computer systems. The term does not include a
32 prescription or refill authorization transmitted verbally by
33 telephone nor a facsimile manually signed by the practitioner.

34 (12) "In-home care settings" include an individual's place of
35 temporary and permanent residence, but does not include acute care or
36 skilled nursing facilities, and does not include community-based care
37 settings.

38 (13) "Legend drugs" means any drugs which are required by state
39 law or regulation of the pharmacy quality assurance commission to be

1 dispensed on prescription only or are restricted to use by
2 practitioners only.

3 (14) "Legible prescription" means a prescription or medication
4 order issued by a practitioner that is capable of being read and
5 understood by the pharmacist filling the prescription or the nurse or
6 other practitioner implementing the medication order. A prescription
7 must be hand printed, typewritten, or electronically generated.

8 (15) "Medication assistance" means assistance rendered by a
9 nonpractitioner to an individual residing in a community-based care
10 setting or in-home care setting to facilitate the individual's self-
11 administration of a legend drug or controlled substance. It includes
12 reminding or coaching the individual, handing the medication
13 container to the individual, opening the individual's medication
14 container, using an enabler, or placing the medication in the
15 individual's hand, and such other means of medication assistance as
16 defined by rule adopted by the department. A nonpractitioner may help
17 in the preparation of legend drugs or controlled substances for self-
18 administration where a practitioner has determined and communicated
19 orally or by written direction that such medication preparation
20 assistance is necessary and appropriate. Medication assistance shall
21 not include assistance with intravenous medications or injectable
22 medications, except prefilled insulin syringes.

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

26 (17) "Practitioner" means:

27 (a) A physician under chapter 18.71 RCW, an osteopathic physician
28 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
29 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
30 under chapter 18.22 RCW, an acupuncturist or acupuncture and Eastern
31 medicine practitioner to the extent authorized under chapter 18.06
32 RCW and the rules adopted under RCW 18.06.010(1)(m), a veterinarian
33 under chapter 18.92 RCW, a registered nurse, advanced registered
34 nurse practitioner, or licensed practical nurse under chapter 18.79
35 RCW, an optometrist under chapter 18.53 RCW who is certified by the
36 optometry board under RCW 18.53.010, a physician assistant under
37 chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a
38 licensed athletic trainer to the extent authorized under chapter
39 18.250 RCW, a pharmacist under chapter 18.64 RCW, when acting under
40 the required supervision of a dentist licensed under chapter 18.32

1 RCW, a dental hygienist licensed under chapter 18.29 RCW, ~~((or))~~ a
2 licensed dental therapist to the extent authorized under chapter
3 18.265 RCW, or a licensed midwife to the extent authorized under
4 chapter 18.50 RCW;

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

9 (c) A physician licensed to practice medicine and surgery or a
10 physician licensed to practice osteopathic medicine and surgery in
11 any state, or province of Canada, which shares a common border with
12 the state of Washington.

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

15 **Sec. 2.** RCW 69.41.030 and 2023 sp.s. c 1 s 4 are each amended to
16 read as follows:

17 (1) It shall be unlawful for any person to sell or deliver any
18 legend drug, or knowingly possess any legend drug, or knowingly use
19 any legend drug in a public place, except upon the order or
20 prescription of a physician under chapter 18.71 RCW, an osteopathic
21 physician and surgeon under chapter 18.57 RCW, an optometrist
22 licensed under chapter 18.53 RCW who is certified by the optometry
23 board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a
24 podiatric physician and surgeon under chapter 18.22 RCW, a licensed
25 midwife to the extent authorized under chapter 18.50 RCW, a
26 veterinarian under chapter 18.92 RCW, a commissioned medical or
27 dental officer in the United States armed forces or public health
28 service in the discharge of his or her official duties, a duly
29 licensed physician or dentist employed by the veterans administration
30 in the discharge of his or her official duties, a registered nurse or
31 advanced registered nurse practitioner under chapter 18.79 RCW when
32 authorized by the board of nursing ~~((care—quality—assurance~~
33 ~~commission))~~, a pharmacist licensed under chapter 18.64 RCW to the
34 extent permitted by drug therapy guidelines or protocols established
35 under RCW 18.64.011 and authorized by the commission and approved by
36 a practitioner authorized to prescribe drugs, a physician assistant
37 under chapter 18.71A RCW when authorized by the Washington medical
38 commission, or any of the following professionals in any province of
39 Canada that shares a common border with the state of Washington or in

1 any state of the United States: A physician licensed to practice
2 medicine and surgery or a physician licensed to practice osteopathic
3 medicine and surgery, a dentist licensed to practice dentistry, a
4 podiatric physician and surgeon licensed to practice podiatric
5 medicine and surgery, a licensed advanced registered nurse
6 practitioner, a licensed physician assistant, or a veterinarian
7 licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the
8 above provisions shall not apply to sale, delivery, or possession by
9 drug wholesalers or drug manufacturers, or their agents or employees,
10 or to any practitioner acting within the scope of his or her license,
11 or to a common or contract carrier or warehouse operator, or any
12 employee thereof, whose possession of any legend drug is in the usual
13 course of business or employment: PROVIDED FURTHER, That nothing in
14 this chapter or chapter 18.64 RCW shall prevent a family planning
15 clinic that is under contract with the health care authority from
16 selling, delivering, possessing, and dispensing commercially
17 prepackaged oral contraceptives prescribed by authorized, licensed
18 health care practitioners: PROVIDED FURTHER, That nothing in this
19 chapter prohibits possession or delivery of legend drugs by an
20 authorized collector or other person participating in the operation
21 of a drug take-back program authorized in chapter 69.48 RCW.

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

25 (b) A violation of this section involving knowing possession is a
26 misdemeanor. The prosecutor is encouraged to divert such cases for
27 assessment, treatment, or other services.

28 (c) A violation of this section involving knowing use in a public
29 place is a misdemeanor. The prosecutor is encouraged to divert such
30 cases for assessment, treatment, or other services.

31 (d) No person may be charged with both knowing possession and
32 knowing use in a public place under this section relating to the same
33 course of conduct.

34 (e) In lieu of jail booking and referral to the prosecutor for a
35 violation of this section involving knowing possession, or knowing
36 use in a public place, law enforcement is encouraged to offer a
37 referral to assessment and services available under RCW 10.31.110 or
38 other program or entity responsible for receiving referrals in lieu
39 of legal system involvement, which may include, but are not limited
40 to, arrest and jail alternative programs established under RCW

1 36.28A.450, law enforcement assisted diversion programs established
2 under RCW 71.24.589, and the recovery navigator program established
3 under RCW 71.24.115.

4 (3) For the purposes of this section, "public place" has the same
5 meaning as defined in RCW 66.04.010, but the exclusions in RCW
6 66.04.011 do not apply.

7 (4) For the purposes of this section, "use any legend drug" means
8 to introduce the drug into the human body by injection, inhalation,
9 ingestion, or any other means.

--- END ---