

**RCW 18.64.026 Actions by the commission against a license—  
Actions following licensee's failure or refusal to comply.** This section does not govern actions taken under chapter 18.130 RCW.

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

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

(b)(i) In accordance with the commission's authority under RCW 18.64.024, the commission may assess a civil fine of up to \$10,000 per violation, not to exceed a total fine of \$1,000,000, on a licensee when the commission determines the licensee has previously been subject to an enforcement action for the same or similar type of violation of the same or similar statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when a licensee failed to correct noncompliance with a statute or rule by a date established or agreed to by the commission.

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

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

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

(B) The operation size of the licensee.

(iv) If a licensee is aggrieved by the commission's action of assessing civil fines, the licensee has the right to appeal under RCW 18.64.024.

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

(i) Prior to imposing a limited stop service, the commission shall provide a licensee written notification upon identifying deficient practices or conditions that constitute an immediate

jeopardy. The licensee shall have 24 hours from notification to develop and implement a commission-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the commission as having been corrected within the same 24-hour period, the commission may issue the limited stop service.

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

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

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

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

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

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

(2) (a) Except as otherwise provided, RCW 18.64.022 and 18.64.024 govern notices of actions taken by the commission under subsection (1) of this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW.

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

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

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

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

(iv) If the hearing panel of the commission determines there is immediate jeopardy, the immediate suspension or modification of the

license or immediate imposition of conditions shall remain in effect pending a full hearing.

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

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

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

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

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

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

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

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the commission's action. A full hearing must be provided within 90 days of the licensee's request. [2024 c 121 s 33.]