

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1627

54th Legislature
1996 Regular Session

Passed by the House January 6, 1996
Yeas 94 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate February 29, 1996
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1627** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1627

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Representatives Dyer, Backlund and Thibaudeau

Read first time 02/02/95. Referred to Committee on Health Care.

1 AN ACT Relating to correcting obsolete terminology for the
2 designation of osteopathic physician and surgeon; amending RCW
3 18.35.110, 18.57.001, 18.57.140, 18.71.030, 18.71.055, 18.71.205,
4 18.76.020, 18.76.060, 18.120.020, 43.43.830, 48.46.170, 49.78.020,
5 68.50.530, 69.41.010, 69.41.030, 69.50.101, 70.05.050, 70.08.030,
6 70.28.031, 70.38.115, 70.96A.020, and 70.124.020; reenacting and
7 amending RCW 26.44.020 and 41.26.030; providing an effective date; and
8 declaring an emergency.

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

10 **Sec. 1.** RCW 18.35.110 and 1993 c 313 s 4 are each amended to read
11 as follows:

12 In addition to causes specified under RCW 18.130.170 and
13 18.130.180, any person licensed under this chapter may be subject to
14 disciplinary action by the board for any of the following causes:

15 (1) For unethical conduct in dealing in hearing aids. Unethical
16 conduct shall include, but not be limited to:

17 (a) Using or causing or promoting the use of, in any advertising
18 matter, promotional literature, testimonial, guarantee, warranty,

1 label, brand, insignia, or any other representation, however
2 disseminated or published, which is false, misleading or deceptive;

3 (b) Failing or refusing to honor or to perform as represented any
4 representation, promise, agreement, or warranty in connection with the
5 promotion, sale, dispensing, or fitting of the hearing aid;

6 (c) Advertising a particular model, type, or kind of hearing aid
7 for sale which purchasers or prospective purchasers responding to the
8 advertisement cannot purchase or are dissuaded from purchasing and
9 where it is established that the purpose of the advertisement is to
10 obtain prospects for the sale of a different model, type, or kind than
11 that advertised;

12 (d) Falsifying hearing test or evaluation results;

13 (e)(i) Whenever any of the following conditions are found or should
14 have been found to exist either from observations by the licensee or on
15 the basis of information furnished by the prospective hearing aid user
16 prior to fitting and dispensing a hearing aid to any such prospective
17 hearing aid user, failing to advise that prospective hearing aid user
18 in writing that the user should first consult a licensed physician
19 specializing in diseases of the ear or if no such licensed physician is
20 available in the community then to any duly licensed physician:

21 (A) Visible congenital or traumatic deformity of the ear, including
22 perforation of the eardrum;

23 (B) History of, or active drainage from the ear within the previous
24 ninety days;

25 (C) History of sudden or rapidly progressive hearing loss within
26 the previous ninety days;

27 (D) Acute or chronic dizziness;

28 (E) Any unilateral hearing loss;

29 (F) Significant air-bone gap when generally acceptable standards
30 have been established as defined by the food and drug administration;

31 (G) Visible evidence of significant cerumen accumulation or a
32 foreign body in the ear canal;

33 (H) Pain or discomfort in the ear; or

34 (I) Any other conditions that the board may by rule establish. It
35 is a violation of this subsection for any licensee or that licensee's
36 employees and putative agents upon making such required referral for
37 medical opinion to in any manner whatsoever disparage or discourage a
38 prospective hearing aid user from seeking such medical opinion prior to
39 the fitting and dispensing of a hearing aid. No such referral for

1 medical opinion need be made by any licensee in the instance of
2 replacement only of a hearing aid which has been lost or damaged beyond
3 repair within six months of the date of purchase. The licensee or the
4 licensee's employees or putative agents shall obtain a signed statement
5 from the hearing aid user documenting the waiver of medical clearance
6 and the waiver shall inform the prospective user that signing the
7 waiver is not in the user's best health interest: PROVIDED, That the
8 licensee shall maintain a copy of either the physician's statement
9 showing that the prospective hearing aid user has had a medical
10 evaluation or the statement waiving medical evaluation, for a period of
11 three years after the purchaser's receipt of a hearing aid. Nothing in
12 this section required to be performed by a licensee shall mean that the
13 licensee is engaged in the diagnosis of illness or the practice of
14 medicine or any other activity prohibited under the laws of this state;

15 (ii) Fitting and dispensing a hearing aid to any person under
16 eighteen years of age who has not been examined and cleared for hearing
17 aid use within the previous six months by a physician specializing in
18 otolaryngology except in the case of replacement instruments or except
19 in the case of the parents or guardian of such person refusing, for
20 good cause, to seek medical opinion: PROVIDED, That should the parents
21 or guardian of such person refuse, for good cause, to seek medical
22 opinion, the licensee shall obtain from such parents or guardian a
23 certificate to that effect in a form as prescribed by the department;

24 (iii) Fitting and dispensing a hearing aid to any person under
25 eighteen years of age who has not been examined by an audiologist who
26 holds at least a master's degree in audiology for recommendations
27 during the previous six months, without first advising such person or
28 his or her parents or guardian in writing that he or she should first
29 consult an audiologist who holds at least a master's degree in
30 audiology, except in cases of hearing aids replaced within six months
31 of their purchase;

32 (f) Representing that the services or advice of a person licensed
33 to practice medicine and surgery under chapter 18.71 RCW or
34 (~~osteopathy~~) osteopathic medicine and surgery under chapter 18.57 RCW
35 or of a clinical audiologist will be used or made available in the
36 selection, fitting, adjustment, maintenance, or repair of hearing aids
37 when that is not true, or using the word "doctor," "clinic," or other
38 like words, abbreviations, or symbols which tend to connote a medical

1 or osteopathic medicine and surgery profession when such use is not
2 accurate;

3 (g) Permitting another to use his or her license;

4 (h) Stating or implying that the use of any hearing aid will
5 restore normal hearing, preserve hearing, prevent or retard progression
6 of a hearing impairment, or any other false, misleading, or medically
7 or audilogically unsupportable claim regarding the efficiency of a
8 hearing aid;

9 (i) Representing or implying that a hearing aid is or will be
10 "custom-made," "made to order," "prescription made," or in any other
11 sense specially fabricated for an individual when that is not the case;
12 or

13 (j) Directly or indirectly offering, giving, permitting, or causing
14 to be given, money or anything of value to any person who advised
15 another in a professional capacity as an inducement to influence that
16 person, or to have that person influence others to purchase or contract
17 to purchase any product sold or offered for sale by the licensee, or to
18 influence any person to refrain from dealing in the products of
19 competitors.

20 (2) Engaging in any unfair or deceptive practice or unfair method
21 of competition in trade within the meaning of RCW 19.86.020.

22 (3) Aiding or abetting any violation of the rebating laws as stated
23 in chapter 19.68 RCW.

24 **Sec. 2.** RCW 18.57.001 and 1991 c 160 s 1 are each amended to read
25 as follows:

26 As used in this chapter:

27 (1) "Board" means the Washington state board of osteopathic
28 medicine and surgery;

29 (2) "Department" means the department of health;

30 (3) "Secretary" means the secretary of health; and

31 (4) "Osteopathic medicine and surgery" means the use of any and all
32 methods in the treatment of disease, injuries, deformities, and all
33 other physical and mental conditions in and of human beings, including
34 the use of osteopathic manipulative therapy. (~~The term means the same~~
35 ~~as "osteopathy and surgery".~~))

36 **Sec. 3.** RCW 18.57.140 and 1919 c 4 s 20 are each amended to read
37 as follows:

1 On all cards, signs, letterheads, envelopes and billheads used by
2 those licensed by this chapter to practice (~~((osteopathy or osteopathy))~~)
3 osteopathic medicine and surgery the word "osteopathic" shall always
4 immediately precede the word "physician" and if the word "surgeon" is
5 used in connection with said name, the word "osteopathic" shall also
6 immediately precede said word "surgeon."

7 **Sec. 4.** RCW 18.71.030 and 1994 1st sp.s. c 9 s 306 are each
8 amended to read as follows:

9 Nothing in this chapter shall be construed to apply to or interfere
10 in any way with the practice of religion or any kind of treatment by
11 prayer; nor shall anything in this chapter be construed to prohibit:

12 (1) The furnishing of medical assistance in cases of emergency
13 requiring immediate attention;

14 (2) The domestic administration of family remedies;

15 (3) The administration of oral medication of any nature to students
16 by public school district employees or private elementary or secondary
17 school employees as provided for in chapter 28A.210 RCW;

18 (4) The practice of dentistry, (~~((osteopathy, —osteopathy))~~)
19 osteopathic medicine and surgery, nursing, chiropractic, podiatric
20 medicine and surgery, optometry, naturopathy, or any other healing art
21 licensed under the methods or means permitted by such license;

22 (5) The practice of medicine in this state by any commissioned
23 medical officer serving in the armed forces of the United States or
24 public health service or any medical officer on duty with the United
25 States veterans administration while such medical officer is engaged in
26 the performance of the duties prescribed for him or her by the laws and
27 regulations of the United States;

28 (6) The practice of medicine by any practitioner licensed by
29 another state or territory in which he or she resides, provided that
30 such practitioner shall not open an office or appoint a place of
31 meeting patients or receiving calls within this state;

32 (7) The practice of medicine by a person who is a regular student
33 in a school of medicine approved and accredited by the commission,
34 however, the performance of such services be only pursuant to a regular
35 course of instruction or assignments from his or her instructor, or
36 that such services are performed only under the supervision and control
37 of a person licensed pursuant to this chapter;

1 (8) The practice of medicine by a person serving a period of
2 postgraduate medical training in a program of clinical medical training
3 sponsored by a college or university in this state or by a hospital
4 accredited in this state, however, the performance of such services
5 shall be only pursuant to his or her duties as a trainee;

6 (9) The practice of medicine by a person who is regularly enrolled
7 in a physician assistant program approved by the commission, however,
8 the performance of such services shall be only pursuant to a regular
9 course of instruction in said program and such services are performed
10 only under the supervision and control of a person licensed pursuant to
11 this chapter;

12 (10) The practice of medicine by a licensed physician assistant
13 which practice is performed under the supervision and control of a
14 physician licensed pursuant to this chapter;

15 (11) The practice of medicine, in any part of this state which
16 shares a common border with Canada and which is surrounded on three
17 sides by water, by a physician licensed to practice medicine and
18 surgery in Canada or any province or territory thereof;

19 (12) The administration of nondental anesthesia by a dentist who
20 has completed a residency in anesthesiology at a school of medicine
21 approved by the commission, however, a dentist allowed to administer
22 nondental anesthesia shall do so only under authorization of the
23 patient's attending surgeon, obstetrician, or psychiatrist, and the
24 commission has jurisdiction to discipline a dentist practicing under
25 this exemption and enjoin or suspend such dentist from the practice of
26 nondental anesthesia according to this chapter and chapter 18.130 RCW;

27 (13) Emergency lifesaving service rendered by a physician's trained
28 mobile intravenous therapy technician, by a physician's trained mobile
29 airway management technician, or by a physician's trained mobile
30 intensive care paramedic, as defined in RCW 18.71.200, if the emergency
31 lifesaving service is rendered under the responsible supervision and
32 control of a licensed physician;

33 (14) The provision of clean, intermittent bladder catheterization
34 for students by public school district employees or private school
35 employees as provided for in RCW 18.79.290 and 28A.210.280.

36 **Sec. 5.** RCW 18.71.055 and 1994 1st sp.s. c 9 s 309 are each
37 amended to read as follows:

1 The commission may approve any school of medicine which is located
2 in any state, territory, or possession of the United States, the
3 District of Columbia, or in the Dominion of Canada, provided that it:

4 (1) Requires collegiate instruction which includes courses deemed
5 by the commission to be prerequisites to medical education;

6 (2) Provides adequate instruction in the following subjects:
7 Anatomy, biochemistry, microbiology and immunology, pathology,
8 pharmacology, physiology, anaesthesiology, dermatology, gynecology,
9 internal medicine, neurology, obstetrics, ophthalmology, orthopedic
10 surgery, otolaryngology, pediatrics, physical medicine and
11 rehabilitation, preventive medicine and public health, psychiatry,
12 radiology, surgery, and urology, and such other subjects determined by
13 the commission;

14 (3) Provides clinical instruction in hospital wards and out-patient
15 clinics under guidance.

16 Approval may be withdrawn by the commission at any time a medical
17 school ceases to comply with one or more of the requirements of this
18 section.

19 (4) Nothing in this section shall be construed to authorize the
20 commission to approve a school of (~~osteopathy, —osteopathy~~)
21 osteopathic medicine and surgery, or osteopathic medicine, for purposes
22 of qualifying an applicant to be licensed under this chapter by direct
23 licensure, reciprocity, or otherwise.

24 **Sec. 6.** RCW 18.71.205 and 1994 1st sp.s. c 9 s 316 are each
25 amended to read as follows:

26 (1) The secretary of the department of health, in conjunction with
27 the advice and assistance of the emergency medical services licensing
28 and certification advisory committee as prescribed in RCW 18.73.050,
29 and the commission, shall prescribe:

30 (a) Minimum standards and performance requirements for the
31 certification and recertification of physician's trained intravenous
32 therapy technicians, airway management technicians, and mobile
33 intensive care paramedics; and

34 (b) Procedures for certification, recertification, and
35 decertification of physician's trained intravenous therapy technicians,
36 airway management technicians, and mobile intensive care paramedics.

37 (2) Initial certification shall be for a period of three years.

1 (3) Recertification shall be granted upon proof of continuing
2 satisfactory performance and education, and shall be for a period of
3 three years.

4 (4) As used in chapters 18.71 and 18.73 RCW, "approved medical
5 program director" means a person who:

6 (a) Is licensed to practice medicine and surgery pursuant to
7 chapter 18.71 RCW or (~~osteopathy~~) osteopathic medicine and surgery
8 pursuant to chapter 18.57 RCW; and

9 (b) Is qualified and knowledgeable in the administration and
10 management of emergency care and services; and

11 (c) Is so certified by the department of health for a county, group
12 of counties, or cities with populations over four hundred thousand in
13 coordination with the recommendations of the local medical community
14 and local emergency medical services and trauma care council.

15 (5) The Uniform Disciplinary Act, chapter 18.130 RCW, governs
16 uncertified practice, the issuance and denial of certificates, and the
17 disciplining of certificate holders under this section. The secretary
18 shall be the disciplining authority under this section. Disciplinary
19 action shall be initiated against a person credentialed under this
20 chapter in a manner consistent with the responsibilities and duties of
21 the medical program director under whom such person is responsible.

22 **Sec. 7.** RCW 18.76.020 and 1991 c 3 s 184 are each amended to read
23 as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter:

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

27 (2) "Poison information center medical director" means a person
28 who: (a) Is licensed to practice medicine and surgery under chapter
29 18.71 RCW or (~~osteopathy~~) osteopathic medicine and surgery under
30 chapter 18.57 RCW; (b) is certified by the secretary under standards
31 adopted under RCW 18.76.050; and (c) provides services enumerated under
32 RCW 18.76.030 (~~and 18.76.040~~), and is responsible for supervision of
33 poison information specialists.

34 (3) "Poison information specialist" means a person who provides
35 services enumerated under RCW 18.76.030 (~~and 18.76.040~~) under the
36 supervision of a poison information center medical director and is
37 certified by the secretary under standards adopted under RCW 18.76.050.

38 (4) "Secretary" means the secretary of health.

1 **Sec. 8.** RCW 18.76.060 and 1993 c 343 s 4 are each amended to read
2 as follows:

3 (1) A person may not act as a poison center medical director or
4 perform the duties of poison information specialists of a poison
5 information center without being certified by the secretary under this
6 chapter.

7 (2) Notwithstanding subsection (1) of this section, if a poison
8 center medical director terminates certification or is decertified,
9 that poison center medical director's authority may be delegated by the
10 department to any other person licensed to practice medicine and
11 surgery under chapter 18.71 RCW or ((osteopathy)) osteopathic medicine
12 and surgery under chapter 18.57 RCW for a period of thirty days, or
13 until a new poison center medical director is certified, whichever
14 comes first.

15 **Sec. 9.** RCW 18.120.020 and 1994 1st sp.s. c 9 s 718 are each
16 amended to read as follows:

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

19 (1) "Applicant group" includes any health professional group or
20 organization, any individual, or any other interested party which
21 proposes that any health professional group not presently regulated be
22 regulated or which proposes to substantially increase the scope of
23 practice of the profession.

24 (2) "Certificate" and "certification" mean a voluntary process by
25 which a statutory regulatory entity grants recognition to an individual
26 who (a) has met certain prerequisite qualifications specified by that
27 regulatory entity, and (b) may assume or use "certified" in the title
28 or designation to perform prescribed health professional tasks.

29 (3) "Grandfather clause" means a provision in a regulatory statute
30 applicable to practitioners actively engaged in the regulated health
31 profession prior to the effective date of the regulatory statute which
32 exempts the practitioners from meeting the prerequisite qualifications
33 set forth in the regulatory statute to perform prescribed occupational
34 tasks.

35 (4) "Health professions" means and includes the following health
36 and health-related licensed or regulated professions and occupations:
37 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
38 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;

1 dentistry under chapter 18.32 RCW; dispensing opticians under chapter
2 18.34 RCW; hearing aids under chapter 18.35 RCW; naturopaths under
3 chapter 18.36A RCW; embalming and funeral directing under chapter 18.39
4 RCW; midwifery under chapter 18.50 RCW; nursing home administration
5 under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW;
6 ocularists under chapter 18.55 RCW; (~~osteopathy and~~) osteopathic
7 medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy
8 under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and
9 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical
10 therapy under chapter 18.74 RCW; practical nurses under chapter 18.79
11 RCW; psychologists under chapter 18.83 RCW; registered nurses under
12 chapter 18.79 RCW; occupational therapists licensed under chapter 18.59
13 RCW; respiratory care practitioners certified under chapter 18.89 RCW;
14 veterinarians and animal technicians under chapter 18.92 RCW; health
15 care assistants under chapter 18.135 RCW; massage practitioners under
16 chapter 18.108 RCW; acupuncturists certified under chapter 18.06 RCW;
17 persons registered or certified under chapter 18.19 RCW; dietitians and
18 nutritionists certified by chapter 18.138 RCW; radiologic technicians
19 under chapter 18.84 RCW; and nursing assistants registered or certified
20 under chapter 18.88A RCW.

21 (5) "Inspection" means the periodic examination of practitioners by
22 a state agency in order to ascertain whether the practitioners'
23 occupation is being carried out in a fashion consistent with the public
24 health, safety, and welfare.

25 (6) "Legislative committees of reference" means the standing
26 legislative committees designated by the respective rules committees of
27 the senate and house of representatives to consider proposed
28 legislation to regulate health professions not previously regulated.

29 (7) "License," "licensing," and "licensure" mean permission to
30 engage in a health profession which would otherwise be unlawful in the
31 state in the absence of the permission. A license is granted to those
32 individuals who meet prerequisite qualifications to perform prescribed
33 health professional tasks and for the use of a particular title.

34 (8) "Professional license" means an individual, nontransferable
35 authorization to carry on a health activity based on qualifications
36 which include: (a) Graduation from an accredited or approved program,
37 and (b) acceptable performance on a qualifying examination or series of
38 examinations.

1 (9) "Practitioner" means an individual who (a) has achieved
2 knowledge and skill by practice, and (b) is actively engaged in a
3 specified health profession.

4 (10) "Public member" means an individual who is not, and never was,
5 a member of the health profession being regulated or the spouse of a
6 member, or an individual who does not have and never has had a material
7 financial interest in either the rendering of the health professional
8 service being regulated or an activity directly related to the
9 profession being regulated.

10 (11) "Registration" means the formal notification which, prior to
11 rendering services, a practitioner shall submit to a state agency
12 setting forth the name and address of the practitioner; the location,
13 nature and operation of the health activity to be practiced; and, if
14 required by the regulatory entity, a description of the service to be
15 provided.

16 (12) "Regulatory entity" means any board, commission, agency,
17 division, or other unit or subunit of state government which regulates
18 one or more professions, occupations, industries, businesses, or other
19 endeavors in this state.

20 (13) "State agency" includes every state office, department, board,
21 commission, regulatory entity, and agency of the state, and, where
22 provided by law, programs and activities involving less than the full
23 responsibility of a state agency.

24 **Sec. 10.** RCW 26.44.020 and 1993 c 412 s 12 and 1993 c 402 s 1 are
25 each reenacted and amended to read as follows:

26 For the purpose of and as used in this chapter:

27 (1) "Court" means the superior court of the state of Washington,
28 juvenile department.

29 (2) "Law enforcement agency" means the police department, the
30 prosecuting attorney, the state patrol, the director of public safety,
31 or the office of the sheriff.

32 (3) "Practitioner of the healing arts" or "practitioner" means a
33 person licensed by this state to practice podiatric medicine and
34 surgery, optometry, chiropractic, nursing, dentistry, ((osteopathy))
35 osteopathic medicine and surgery, or medicine and surgery or to provide
36 other health services. The term "practitioner" shall include a duly
37 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a
38 person who is being furnished Christian Science treatment by a duly

1 accredited Christian Science practitioner shall not be considered, for
2 that reason alone, a neglected person for the purposes of this chapter.

3 (4) "Institution" means a private or public hospital or any other
4 facility providing medical diagnosis, treatment or care.

5 (5) "Department" means the state department of social and health
6 services.

7 (6) "Child" or "children" means any person under the age of
8 eighteen years of age.

9 (7) "Professional school personnel" shall include, but not be
10 limited to, teachers, counselors, administrators, child care facility
11 personnel, and school nurses.

12 (8) "Social service counselor" shall mean anyone engaged in a
13 professional capacity during the regular course of employment in
14 encouraging or promoting the health, welfare, support or education of
15 children, or providing social services to adults or families, including
16 mental health, drug and alcohol treatment, and domestic violence
17 programs, whether in an individual capacity, or as an employee or agent
18 of any public or private organization or institution.

19 (9) "Psychologist" shall mean any person licensed to practice
20 psychology under chapter 18.83 RCW, whether acting in an individual
21 capacity or as an employee or agent of any public or private
22 organization or institution.

23 (10) "Pharmacist" shall mean any registered pharmacist under the
24 provisions of chapter 18.64 RCW, whether acting in an individual
25 capacity or as an employee or agent of any public or private
26 organization or institution.

27 (11) "Clergy" shall mean any regularly licensed or ordained
28 minister, priest or rabbi of any church or religious denomination,
29 whether acting in an individual capacity or as an employee or agent of
30 any public or private organization or institution.

31 (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual
32 exploitation, negligent treatment, or maltreatment of a child, adult
33 dependent, or developmentally disabled person by any person under
34 circumstances which indicate that the child's or adult's health,
35 welfare, and safety is harmed. An abused child is a child who has been
36 subjected to child abuse or neglect as defined herein.

37 (13) "Child protective services section" shall mean the child
38 protective services section of the department.

1 (14) "Adult dependent persons" shall be defined as those persons
2 over the age of eighteen years who have been found to be legally
3 incompetent or disabled pursuant to chapter 11.88 RCW.

4 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
5 encouraging a child to engage in prostitution by any person; or (b)
6 allowing, permitting, encouraging, or engaging in the obscene or
7 pornographic photographing, filming, or depicting of a child by any
8 person.

9 (16) "Negligent treatment or maltreatment" means an act or omission
10 which evidences a serious disregard of consequences of such magnitude
11 as to constitute a clear and present danger to the child's health,
12 welfare, and safety.

13 (17) "Developmentally disabled person" means a person who has a
14 disability defined in RCW 71A.10.020.

15 (18) "Child protective services" means those services provided by
16 the department designed to protect children from child abuse and
17 neglect and safeguard the general welfare of such children and shall
18 include investigations of child abuse and neglect reports, including
19 reports regarding child care centers and family child care homes, and
20 the development, management, and provision of or referral to services
21 to ameliorate conditions which endanger the welfare of children, the
22 coordination of necessary programs and services relevant to the
23 prevention, intervention, and treatment of child abuse and neglect, and
24 services to children to ensure that each child has a permanent home.
25 In determining whether protective services should be provided, the
26 department shall not decline to provide such services solely because of
27 the child's unwillingness or developmental inability to describe the
28 nature and severity of the abuse or neglect.

29 (19) "Malice" or "maliciously" means an evil intent, wish, or
30 design to vex, annoy, or injure another person. Such malice may be
31 inferred from an act done in wilful disregard of the rights of another,
32 or an act wrongfully done without just cause or excuse, or an act or
33 omission of duty betraying a wilful disregard of social duty.

34 (20) "Sexually aggressive youth" means a child who is defined in
35 RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

36 **Sec. 11.** RCW 41.26.030 and 1994 c 264 s 14 and 1994 c 197 s 5 are
37 each reenacted and amended to read as follows:

1 As used in this chapter, unless a different meaning is plainly
2 required by the context:

3 (1) "Retirement system" means the "Washington law enforcement
4 officers' and fire fighters' retirement system" provided herein.

5 (2)(a) "Employer" for plan I members, means the legislative
6 authority of any city, town, county, or district or the elected
7 officials of any municipal corporation that employs any law enforcement
8 officer and/or fire fighter, any authorized association of such
9 municipalities, and, except for the purposes of RCW 41.26.150, any
10 labor guild, association, or organization, which represents the fire
11 fighters or law enforcement officers of at least seven cities of over
12 20,000 population and the membership of each local lodge or division of
13 which is composed of at least sixty percent law enforcement officers or
14 fire fighters as defined in this chapter.

15 (b) "Employer" for plan II members, means the following entities to
16 the extent that the entity employs any law enforcement officer and/or
17 fire fighter:

18 (i) The legislative authority of any city, town, county, or
19 district;

20 (ii) The elected officials of any municipal corporation; or

21 (iii) The governing body of any other general authority law
22 enforcement agency.

23 (3) "Law enforcement officer" beginning January 1, 1994, means any
24 person who is commissioned and employed by an employer on a full time,
25 fully compensated basis to enforce the criminal laws of the state of
26 Washington generally, with the following qualifications:

27 (a) No person who is serving in a position that is basically
28 clerical or secretarial in nature, and who is not commissioned shall be
29 considered a law enforcement officer;

30 (b) Only those deputy sheriffs, including those serving under a
31 different title pursuant to county charter, who have successfully
32 completed a civil service examination for deputy sheriff or the
33 equivalent position, where a different title is used, and those persons
34 serving in unclassified positions authorized by RCW 41.14.070 except a
35 private secretary will be considered law enforcement officers;

36 (c) Only such full time commissioned law enforcement personnel as
37 have been appointed to offices, positions, or ranks in the police
38 department which have been specifically created or otherwise expressly
39 provided for and designated by city charter provision or by ordinance

1 enacted by the legislative body of the city shall be considered city
2 police officers;

3 (d) The term "law enforcement officer" also includes the executive
4 secretary of a labor guild, association or organization (which is an
5 employer under RCW 41.26.030(2) (~~as now or hereafter amended~~)) if
6 that individual has five years previous membership in the retirement
7 system established in chapter 41.20 RCW. The provisions of this
8 subsection (3)(d) shall not apply to plan II members; and

9 (e) The term "law enforcement officer" also includes a person
10 employed on or after January 1, 1993, as a public safety officer or
11 director of public safety, so long as the job duties substantially
12 involve only either police or fire duties, or both, and no other duties
13 in a city or town with a population of less than ten thousand. The
14 provisions of this subsection (3)(e) shall not apply to any public
15 safety officer or director of public safety who is receiving a
16 retirement allowance under this chapter as of May 12, 1993.

17 (4) "Fire fighter" means:

18 (a) Any person who is serving on a full time, fully compensated
19 basis as a member of a fire department of an employer and who is
20 serving in a position which requires passing a civil service
21 examination for fire fighter, and who is actively employed as such;

22 (b) Anyone who is actively employed as a full time fire fighter
23 where the fire department does not have a civil service examination;

24 (c) Supervisory fire fighter personnel;

25 (d) Any full time executive secretary of an association of fire
26 protection districts authorized under RCW 52.12.031. The provisions of
27 this subsection (4)(d) shall not apply to plan II members;

28 (e) The executive secretary of a labor guild, association or
29 organization (which is an employer under RCW 41.26.030(2) as now or
30 hereafter amended), if such individual has five years previous
31 membership in a retirement system established in chapter 41.16 or 41.18
32 RCW. The provisions of this subsection (4)(e) shall not apply to plan
33 II members;

34 (f) Any person who is serving on a full time, fully compensated
35 basis for an employer, as a fire dispatcher, in a department in which,
36 on March 1, 1970, a dispatcher was required to have passed a civil
37 service examination for fire fighter; and

38 (g) Any person who on March 1, 1970, was employed on a full time,
39 fully compensated basis by an employer, and who on May 21, 1971, was

1 making retirement contributions under the provisions of chapter 41.16
2 or 41.18 RCW.

3 (5) "Department" means the department of retirement systems created
4 in chapter 41.50 RCW.

5 (6) "Surviving spouse" means the surviving widow or widower of a
6 member. "Surviving spouse" shall not include the divorced spouse of a
7 member except as provided in RCW 41.26.162.

8 (7)(a) "Child" or "children" means an unmarried person who is under
9 the age of eighteen or mentally or physically handicapped as determined
10 by the department, except a handicapped person in the full time care of
11 a state institution, who is:

12 (i) A natural born child;

13 (ii) A stepchild where that relationship was in existence prior to
14 the date benefits are payable under this chapter;

15 (iii) A posthumous child;

16 (iv) A child legally adopted or made a legal ward of a member prior
17 to the date benefits are payable under this chapter; or

18 (v) An illegitimate child legitimized prior to the date any
19 benefits are payable under this chapter.

20 (b) A person shall also be deemed to be a child up to and including
21 the age of twenty years and eleven months while attending any high
22 school, college, or vocational or other educational institution
23 accredited, licensed, or approved by the state, in which it is located,
24 including the summer vacation months and all other normal and regular
25 vacation periods at the particular educational institution after which
26 the child returns to school.

27 (8) "Member" means any fire fighter, law enforcement officer, or
28 other person as would apply under subsections (3) or (4) of this
29 section whose membership is transferred to the Washington law
30 enforcement officers' and fire fighters' retirement system on or after
31 March 1, 1970, and every law enforcement officer and fire fighter who
32 is employed in that capacity on or after such date.

33 (9) "Retirement fund" means the "Washington law enforcement
34 officers' and fire fighters' retirement system fund" as provided for
35 herein.

36 (10) "Employee" means any law enforcement officer or fire fighter
37 as defined in subsections (3) and (4) of this section.

1 (11)(a) "Beneficiary" for plan I members, means any person in
2 receipt of a retirement allowance, disability allowance, death benefit,
3 or any other benefit described herein.

4 (b) "Beneficiary" for plan II members, means any person in receipt
5 of a retirement allowance or other benefit provided by this chapter
6 resulting from service rendered to an employer by another person.

7 (12)(a) "Final average salary" for plan I members, means (i) for a
8 member holding the same position or rank for a minimum of twelve months
9 preceding the date of retirement, the basic salary attached to such
10 same position or rank at time of retirement; (ii) for any other member,
11 including a civil service member who has not served a minimum of twelve
12 months in the same position or rank preceding the date of retirement,
13 the average of the greatest basic salaries payable to such member
14 during any consecutive twenty-four month period within such member's
15 last ten years of service for which service credit is allowed, computed
16 by dividing the total basic salaries payable to such member during the
17 selected twenty-four month period by twenty-four; (iii) in the case of
18 disability of any member, the basic salary payable to such member at
19 the time of disability retirement; (iv) in the case of a member who
20 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
21 such member at the time of vesting.

22 (b) "Final average salary" for plan II members, means the monthly
23 average of the member's basic salary for the highest consecutive sixty
24 service credit months of service prior to such member's retirement,
25 termination, or death. Periods constituting authorized unpaid leaves
26 of absence may not be used in the calculation of final average salary.

27 (13)(a) "Basic salary" for plan I members, means the basic monthly
28 rate of salary or wages, including longevity pay but not including
29 overtime earnings or special salary or wages, upon which pension or
30 retirement benefits will be computed and upon which employer
31 contributions and salary deductions will be based.

32 (b) "Basic salary" for plan II members, means salaries or wages
33 earned by a member during a payroll period for personal services,
34 including overtime payments, and shall include wages and salaries
35 deferred under provisions established pursuant to sections 403(b),
36 414(h), and 457 of the United States Internal Revenue Code, but shall
37 exclude lump sum payments for deferred annual sick leave, unused
38 accumulated vacation, unused accumulated annual leave, or any form of
39 severance pay. In any year in which a member serves in the legislature

1 the member shall have the option of having such member's basic salary
2 be the greater of:

3 (i) The basic salary the member would have received had such member
4 not served in the legislature; or

5 (ii) Such member's actual basic salary received for nonlegislative
6 public employment and legislative service combined. Any additional
7 contributions to the retirement system required because basic salary
8 under (b)(i) of this subsection is greater than basic salary under
9 (b)(ii) of this subsection shall be paid by the member for both member
10 and employer contributions.

11 (14)(a) "Service" for plan I members, means all periods of
12 employment for an employer as a fire fighter or law enforcement
13 officer, for which compensation is paid, together with periods of
14 suspension not exceeding thirty days in duration. For the purposes of
15 this chapter service shall also include service in the armed forces of
16 the United States as provided in RCW 41.26.190. Credit shall be
17 allowed for all service credit months of service rendered by a member
18 from and after the member's initial commencement of employment as a
19 fire fighter or law enforcement officer, during which the member worked
20 for seventy or more hours, or was on disability leave or disability
21 retirement. Only service credit months of service shall be counted in
22 the computation of any retirement allowance or other benefit provided
23 for in this chapter.

24 (i) For members retiring after May 21, 1971 who were employed under
25 the coverage of a prior pension act before March 1, 1970, "service"
26 shall also include (A) such military service not exceeding five years
27 as was creditable to the member as of March 1, 1970, under the member's
28 particular prior pension act, and (B) such other periods of service as
29 were then creditable to a particular member under the provisions of RCW
30 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
31 be allowed for any service rendered prior to March 1, 1970, where the
32 member at the time of rendition of such service was employed in a
33 position covered by a prior pension act, unless such service, at the
34 time credit is claimed therefor, is also creditable under the
35 provisions of such prior act.

36 (ii) A member who is employed by two employers at the same time
37 shall only be credited with service to one such employer for any month
38 during which the member rendered such dual service.

1 (b) "Service" for plan II members, means periods of employment by
2 a member for one or more employers for which basic salary is earned for
3 ninety or more hours per calendar month which shall constitute a
4 service credit month. Periods of employment by a member for one or
5 more employers for which basic salary is earned for at least seventy
6 hours but less than ninety hours per calendar month shall constitute
7 one-half service credit month. Periods of employment by a member for
8 one or more employers for which basic salary is earned for less than
9 seventy hours shall constitute a one-quarter service credit month.

10 Members of the retirement system who are elected or appointed to a
11 state elective position may elect to continue to be members of this
12 retirement system.

13 Service credit years of service shall be determined by dividing the
14 total number of service credit months of service by twelve. Any
15 fraction of a service credit year of service as so determined shall be
16 taken into account in the computation of such retirement allowance or
17 benefits.

18 If a member receives basic salary from two or more employers during
19 any calendar month, the individual shall receive one service credit
20 month's service credit during any calendar month in which multiple
21 service for ninety or more hours is rendered; or one-half service
22 credit month's service credit during any calendar month in which
23 multiple service for at least seventy hours but less than ninety hours
24 is rendered; or one-quarter service credit month during any calendar
25 month in which multiple service for less than seventy hours is
26 rendered.

27 (15) "Accumulated contributions" means the employee's contributions
28 made by a member, including any amount paid under RCW 41.50.165(2),
29 plus accrued interest credited thereon.

30 (16) "Actuarial reserve" means a method of financing a pension or
31 retirement plan wherein reserves are accumulated as the liabilities for
32 benefit payments are incurred in order that sufficient funds will be
33 available on the date of retirement of each member to pay the member's
34 future benefits during the period of retirement.

35 (17) "Actuarial valuation" means a mathematical determination of
36 the financial condition of a retirement plan. It includes the
37 computation of the present monetary value of benefits payable to
38 present members, and the present monetary value of future employer and
39 employee contributions, giving effect to mortality among active and

1 retired members and also to the rates of disability, retirement,
2 withdrawal from service, salary and interest earned on investments.

3 (18) "Disability board" for plan I members means either the county
4 disability board or the city disability board established in RCW
5 41.26.110.

6 (19) "Disability leave" means the period of six months or any
7 portion thereof during which a member is on leave at an allowance equal
8 to the member's full salary prior to the commencement of disability
9 retirement. The definition contained in this subsection shall apply
10 only to plan I members.

11 (20) "Disability retirement" for plan I members, means the period
12 following termination of a member's disability leave, during which the
13 member is in receipt of a disability retirement allowance.

14 (21) "Position" means the employment held at any particular time,
15 which may or may not be the same as civil service rank.

16 (22) "Medical services" for plan I members, shall include the
17 following as minimum services to be provided. Reasonable charges for
18 these services shall be paid in accordance with RCW 41.26.150.

19 (a) Hospital expenses: These are the charges made by a hospital,
20 in its own behalf, for

21 (i) Board and room not to exceed semiprivate room rate unless
22 private room is required by the attending physician due to the
23 condition of the patient.

24 (ii) Necessary hospital services, other than board and room,
25 furnished by the hospital.

26 (b) Other medical expenses: The following charges are considered
27 "other medical expenses", provided that they have not been considered
28 as "hospital expenses".

29 (i) The fees of the following:

30 (A) A physician or surgeon licensed under the provisions of chapter
31 18.71 RCW;

32 (B) An (~~osteopath~~) osteopathic physician and surgeon licensed
33 under the provisions of chapter 18.57 RCW;

34 (C) A chiropractor licensed under the provisions of chapter 18.25
35 RCW.

36 (ii) The charges of a registered graduate nurse other than a nurse
37 who ordinarily resides in the member's home, or is a member of the
38 family of either the member or the member's spouse.

39 (iii) The charges for the following medical services and supplies:

1 (A) Drugs and medicines upon a physician's prescription;
2 (B) Diagnostic x-ray and laboratory examinations;
3 (C) X-ray, radium, and radioactive isotopes therapy;
4 (D) Anesthesia and oxygen;
5 (E) Rental of iron lung and other durable medical and surgical
6 equipment;
7 (F) Artificial limbs and eyes, and casts, splints, and trusses;
8 (G) Professional ambulance service when used to transport the
9 member to or from a hospital when injured by an accident or stricken by
10 a disease;
11 (H) Dental charges incurred by a member who sustains an accidental
12 injury to his or her teeth and who commences treatment by a legally
13 licensed dentist within ninety days after the accident;
14 (I) Nursing home confinement or hospital extended care facility;
15 (J) Physical therapy by a registered physical therapist;
16 (K) Blood transfusions, including the cost of blood and blood
17 plasma not replaced by voluntary donors;
18 (L) An optometrist licensed under the provisions of chapter 18.53
19 RCW.

20 (23) "Regular interest" means such rate as the director may
21 determine.

22 (24) "Retiree" for persons who establish membership in the
23 retirement system on or after October 1, 1977, means any member in
24 receipt of a retirement allowance or other benefit provided by this
25 chapter resulting from service rendered to an employer by such member.

26 (25) "Director" means the director of the department.

27 (26) "State actuary" or "actuary" means the person appointed
28 pursuant to RCW 44.44.010(2).

29 (27) "State elective position" means any position held by any
30 person elected or appointed to state-wide office or elected or
31 appointed as a member of the legislature.

32 (28) "Plan I" means the law enforcement officers' and fire
33 fighters' retirement system, plan I providing the benefits and funding
34 provisions covering persons who first became members of the system
35 prior to October 1, 1977.

36 (29) "Plan II" means the law enforcement officers' and fire
37 fighters' retirement system, plan II providing the benefits and funding
38 provisions covering persons who first became members of the system on
39 and after October 1, 1977.

1 (30) "Service credit year" means an accumulation of months of
2 service credit which is equal to one when divided by twelve.

3 (31) "Service credit month" means a full service credit month or an
4 accumulation of partial service credit months that are equal to one.

5 (32) "General authority law enforcement agency" means any agency,
6 department, or division of a municipal corporation, political
7 subdivision, or other unit of local government of this state, and any
8 agency, department, or division of state government, having as its
9 primary function the detection and apprehension of persons committing
10 infractions or violating the traffic or criminal laws in general, but
11 not including the Washington state patrol. Such an agency, department,
12 or division is distinguished from a limited authority law enforcement
13 agency having as one of its functions the apprehension or detection of
14 persons committing infractions or violating the traffic or criminal
15 laws relating to limited subject areas, including but not limited to,
16 the state departments of natural resources, fish and wildlife, and
17 social and health services, the state gambling commission, the state
18 lottery commission, the state parks and recreation commission, the
19 state utilities and transportation commission, the state liquor control
20 board, and the state department of corrections.

21 **Sec. 12.** RCW 43.43.830 and 1994 c 108 s 1 are each amended to read
22 as follows:

23 Unless the context clearly requires otherwise, the definitions in
24 this section apply throughout RCW 43.43.830 through 43.43.840.

25 (1) "Applicant" means:

26 (a) Any prospective employee who will or may have unsupervised
27 access to children under sixteen years of age or developmentally
28 disabled persons or vulnerable adults during the course of his or her
29 employment or involvement with the business or organization;

30 (b) Any prospective volunteer who will have regularly scheduled
31 unsupervised access to children under sixteen years of age,
32 developmentally disabled persons, or vulnerable adults during the
33 course of his or her employment or involvement with the business or
34 organization under circumstances where such access will or may involve
35 groups of (i) five or fewer children under twelve years of age, (ii)
36 three or fewer children between twelve and sixteen years of age, (iii)
37 developmentally disabled persons, or (iv) vulnerable adults; or

38 (c) Any prospective adoptive parent, as defined in RCW 26.33.020.

1 (2) "Business or organization" means a business or organization
2 licensed in this state, any agency of the state, or other governmental
3 entity, that educates, trains, treats, supervises, houses, or provides
4 recreation to developmentally disabled persons, vulnerable adults, or
5 children under sixteen years of age, including but not limited to
6 public housing authorities, school districts, and educational service
7 districts.

8 (3) "Civil adjudication" means a specific court finding of sexual
9 abuse or exploitation or physical abuse in a dependency action under
10 RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In
11 the case of vulnerable adults, civil adjudication means a specific
12 court finding of abuse or financial exploitation in a protection
13 proceeding under chapter 74.34 RCW. It does not include administrative
14 proceedings. The term "civil adjudication" is further limited to court
15 findings that identify as the perpetrator of the abuse a named
16 individual, over the age of eighteen years, who was a party to the
17 dependency or dissolution proceeding or was a respondent in a
18 protection proceeding in which the finding was made and who contested
19 the allegation of abuse or exploitation.

20 (4) "Conviction record" means "conviction record" information as
21 defined in RCW 10.97.030(3) relating to a crime against children or
22 other persons committed by either an adult or a juvenile. It does not
23 include a conviction for an offense that has been the subject of an
24 expungement, pardon, annulment, certificate of rehabilitation, or other
25 equivalent procedure based on a finding of the rehabilitation of the
26 person convicted, or a conviction that has been the subject of a
27 pardon, annulment, or other equivalent procedure based on a finding of
28 innocence. It does include convictions for offenses for which the
29 defendant received a deferred or suspended sentence, unless the record
30 has been expunged according to law.

31 (5) "Crime against children or other persons" means a conviction of
32 any of the following offenses: Aggravated murder; first or second
33 degree murder; first or second degree kidnaping; first, second, or
34 third degree assault; first, second, or third degree assault of a
35 child; first, second, or third degree rape; first, second, or third
36 degree rape of a child; first or second degree robbery; first degree
37 arson; first degree burglary; first or second degree manslaughter;
38 first or second degree extortion; indecent liberties; incest; vehicular
39 homicide; first degree promoting prostitution; communication with a

1 minor; unlawful imprisonment; simple assault; sexual exploitation of
2 minors; first or second degree criminal mistreatment; child abuse or
3 neglect as defined in RCW 26.44.020; first or second degree custodial
4 interference; malicious harassment; first, second, or third degree
5 child molestation; first or second degree sexual misconduct with a
6 minor; first or second degree rape of a child; patronizing a juvenile
7 prostitute; child abandonment; promoting pornography; selling or
8 distributing erotic material to a minor; custodial assault; violation
9 of child abuse restraining order; child buying or selling;
10 prostitution; felony indecent exposure; or any of these crimes as they
11 may be renamed in the future.

12 (6) "Crimes relating to financial exploitation" means a conviction
13 for first, second, or third degree extortion; first, second, or third
14 degree theft; first or second degree robbery; forgery; or any of these
15 crimes as they may be renamed in the future.

16 (7) "Disciplinary board final decision" means any final decision
17 issued by the disciplinary board or the director of the department of
18 licensing for the following businesses or professions:

- 19 (a) Chiropractic;
- 20 (b) Dentistry;
- 21 (c) Dental hygiene;
- 22 (d) Massage;
- 23 (e) Midwifery;
- 24 (f) Naturopathy;
- 25 (g) (~~Osteopathy~~) Osteopathic medicine and surgery;
- 26 (h) Physical therapy;
- 27 (i) Physicians;
- 28 (j) Practical nursing;
- 29 (k) Registered nursing;
- 30 (l) Psychology; and
- 31 (m) Real estate brokers and salesmen.

32 (8) "Unsupervised" means not in the presence of:

33 (a) Another employee or volunteer from the same business or
34 organization as the applicant; or

35 (b) Any relative or guardian of any of the children or
36 developmentally disabled persons to which the applicant has access
37 during the course of his or her employment or involvement with the
38 business or organization.

1 (9) "Vulnerable adult" means a person sixty years of age or older
2 who has the functional, mental, or physical inability to care for
3 himself or herself or a patient in a state hospital as defined in
4 chapter 72.23 RCW.

5 (10) "Financial exploitation" means the illegal or improper use of
6 a vulnerable adult or that adult's resources for another person's
7 profit or advantage.

8 (11) "Agency" means any person, firm, partnership, association,
9 corporation, or facility which receives, provides services to, houses
10 or otherwise cares for vulnerable adults.

11 **Sec. 13.** RCW 48.46.170 and 1983 c 106 s 7 are each amended to read
12 as follows:

13 (1) Solicitation of enrolled participants by a health maintenance
14 organization granted a certificate of registration, or its agents or
15 representatives, shall not be construed to violate any provision of law
16 relating to solicitation or advertising by health professionals.

17 (2) Any health maintenance organization authorized under this
18 chapter shall not be deemed to be violating any law prohibiting the
19 practice by unlicensed persons of (~~podiatry~~) podiatric medicine and
20 surgery, chiropractic, dental hygiene, opticianary, dentistry,
21 optometry, (~~osteopathy~~) osteopathic medicine and surgery, pharmacy,
22 medicine and surgery, physical therapy, nursing, or psychology:
23 PROVIDED, That this subsection shall not be construed to expand a
24 health professional's scope of practice or to allow employees of a
25 health maintenance organization to practice as a health professional
26 unless licensed.

27 (3) Nothing contained in this chapter shall alter any statutory
28 obligation, or rule (~~or regulation promulgated~~) adopted thereunder,
29 in chapter 70.38 or 70.39 RCW.

30 (4) Any health maintenance organization receiving a certificate of
31 registration pursuant to this chapter shall be exempt from the
32 provisions of chapter 48.05 RCW, but shall be subject to chapter 70.39
33 RCW.

34 **Sec. 14.** RCW 49.78.020 and 1989 1st ex.s. c 11 s 2 are each
35 amended to read as follows:

36 Unless the context clearly requires otherwise, the definitions in
37 this section apply throughout this chapter.

1 (1) "Child" means a biological or adopted child, or a stepchild,
2 living with the employee.

3 (2) "Department" means the department of labor and industries.

4 (3) "Employee" means a person other than an independent contractor
5 employed by an employer on a continuous basis for the previous fifty-
6 two weeks for at least thirty-five hours per week.

7 (4) "Employer" means: (a) Any person, firm, corporation,
8 partnership, business trust, legal representative, or other business
9 entity which engages in any business, industry, profession, or activity
10 in this state and includes any unit of local government including, but
11 not limited to, a county, city, town, municipal corporation, quasi-
12 municipal corporation, or political subdivision, which (i) employed a
13 daily average of one hundred or more employees during the last calendar
14 quarter at the place where the employee requesting leave reports for
15 work, or (ii) employed a daily average of one hundred or more employees
16 during the last calendar quarter within a twenty mile radius of the
17 place where the employee requesting leave reports for work, where the
18 employer maintains a central hiring location and customarily transfers
19 employees among workplaces; and (b) the state, state institutions, and
20 state agencies.

21 (5) "Family leave" means leave from employment to care for a
22 newborn or newly adopted child under the age of six or a child under
23 eighteen years old with a terminal health condition, as provided in RCW
24 49.78.030.

25 (6) "Health care provider" means a person licensed as a physician
26 under chapter 18.71 RCW or an (~~osteopath~~) osteopathic physician and
27 surgeon under chapter 18.57 RCW.

28 (7) "Parent" means a biological or adoptive parent, or a
29 stepparent.

30 (8) "Reduced leave schedule" means leave scheduled for fewer than
31 an employee's usual number of hours or days per workweek.

32 (9) "Terminal health condition" means a condition caused by injury,
33 disease, or illness, that, within reasonable medical judgment, is
34 incurable and will produce death within the period of leave to which
35 the employee is entitled.

36 **Sec. 15.** RCW 68.50.530 and 1993 c 228 s 2 are each amended to read
37 as follows:

1 Unless the context requires otherwise, the definitions in this
2 section apply throughout RCW 68.50.520 through 68.50.630 and 68.50.901
3 through 68.50.904.

4 (1) "Anatomical gift" means a donation of all or part of a human
5 body to take effect upon or after death.

6 (2) "Decedent" means a deceased individual.

7 (3) "Document of gift" means a card, a statement attached to or
8 imprinted on a motor vehicle operator's license, a will, or other
9 writing used to make an anatomical gift.

10 (4) "Donor" means an individual who makes an anatomical gift of all
11 or part of the individual's body.

12 (5) "Enucleator" means an individual who is qualified to remove or
13 process eyes or parts of eyes.

14 (6) "Hospital" means a facility licensed under chapter 70.41 RCW,
15 or as a hospital under the law of any state or a facility operated as
16 a hospital by the United States government, a state, or a subdivision
17 of a state.

18 (7) "Part" means an organ, tissue, eye, bone, artery, blood, fluid,
19 or other portion of a human body.

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

24 (9) "Physician" or "surgeon" means an individual licensed or
25 otherwise authorized to practice medicine and surgery or (~~osteopathy~~)
26 osteopathic medicine and surgery under chapters 18.71 and 18.57 RCW.

27 (10) "Procurement organization" means a person licensed,
28 accredited, or approved under the laws of any state for procurement,
29 distribution, or storage of human bodies or parts.

30 (11) "State" means a state, territory, or possession of the United
31 States, the District of Columbia, or the Commonwealth of Puerto Rico.

32 (12) "Technician" means an individual who is qualified to remove or
33 process a part.

34 **Sec. 16.** RCW 69.41.010 and 1994 1st sp.s. c 9 s 736 are each
35 amended to read as follows:

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

1 (1) "Administer" means the direct application of a legend drug
2 whether by injection, inhalation, ingestion, or any other means, to the
3 body of a patient or research subject by:
4 (a) A practitioner; or
5 (b) The patient or research subject at the direction of the
6 practitioner.

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

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

11 (4) "Dispense" means the interpretation of a prescription or order
12 for a legend drug and, pursuant to that prescription or order, the
13 proper selection, measuring, compounding, labeling, or packaging
14 necessary to prepare that prescription or order for delivery.

15 (5) "Dispenser" means a practitioner who dispenses.

16 (6) "Distribute" means to deliver other than by administering or
17 dispensing a legend drug.

18 (7) "Distributor" means a person who distributes.

19 (8) "Drug" means:
20 (a) Substances recognized as drugs in the official United States
21 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
22 or official national formulary, or any supplement to any of them;
23 (b) Substances intended for use in the diagnosis, cure, mitigation,
24 treatment, or prevention of disease in man or animals;
25 (c) Substances (other than food, minerals or vitamins) intended to
26 affect the structure or any function of the body of man or animals; and
27 (d) Substances intended for use as a component of any article
28 specified in clause (a), (b), or (c) of this subsection. It does not
29 include devices or their components, parts, or accessories.

30 (9) "Legend drugs" means any drugs which are required by state law
31 or regulation of the state board of pharmacy to be dispensed on
32 prescription only or are restricted to use by practitioners only.

33 (10) "Person" means individual, corporation, government or
34 governmental subdivision or agency, business trust, estate, trust,
35 partnership or association, or any other legal entity.

36 (11) "Practitioner" means:
37 (a) A physician under chapter 18.71 RCW, an osteopathic physician
38 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
39 dentist under chapter 18.32 RCW, a podiatric physician and surgeon

1 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
2 registered nurse, advanced registered nurse practitioner, or licensed
3 practical nurse under chapter 18.79 RCW, an optometrist under chapter
4 18.53 RCW who is certified by the optometry board under RCW 18.53.010,
5 an osteopathic physician assistant under chapter 18.57A RCW, a
6 physician assistant under chapter 18.71A RCW, or a pharmacist under
7 chapter 18.64 RCW;

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

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

16 (12) "Secretary" means the secretary of health or the secretary's
17 designee.

18 **Sec. 17.** RCW 69.41.030 and 1994 1st sp.s. c 9 s 737 are each
19 amended to read as follows:

20 It shall be unlawful for any person to sell, deliver, or possess
21 any legend drug except upon the order or prescription of a physician
22 under chapter 18.71 RCW, ((an osteopathic physician or)) an osteopathic
23 physician and surgeon under chapter 18.57 RCW, a dentist under chapter
24 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW,
25 a veterinarian under chapter 18.92 RCW, a commissioned medical or
26 dental officer in the United States armed forces or public health
27 service in the discharge of his or her official duties, a duly licensed
28 physician or dentist employed by the veterans administration in the
29 discharge of his or her official duties, a registered nurse or advanced
30 registered nurse practitioner under chapter 18.79 RCW when authorized
31 by the nursing care quality assurance commission, an osteopathic
32 physician assistant under chapter 18.57A RCW when authorized by the
33 board of osteopathic ((examiners)) medicine and surgery, a physician
34 assistant under chapter 18.71A RCW when authorized by the medical
35 quality assurance commission, a physician licensed to practice medicine
36 and surgery or a physician licensed to practice ((osteopathy))
37 osteopathic medicine and surgery, a dentist licensed to practice
38 dentistry, a podiatric physician and surgeon licensed to practice

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

16 **Sec. 18.** RCW 69.50.101 and 1994 1st sp.s. c 9 s 739 are each
17 amended to read as follows:

18 Unless the context clearly requires otherwise, definitions of terms
19 shall be as indicated where used in this chapter:

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

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

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

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

31 (c) "Board" means the state board of pharmacy.

32 (d) "Controlled substance" means a drug, substance, or immediate
33 precursor included in Schedules I through V as set forth in federal or
34 state laws, or federal or board rules.

35 (e)(1) "Controlled substance analog" means a substance the chemical
36 structure of which is substantially similar to the chemical structure
37 of a controlled substance in Schedule I or II and:

1 (i) that has a stimulant, depressant, or hallucinogenic effect on
2 the central nervous system substantially similar to the stimulant,
3 depressant, or hallucinogenic effect on the central nervous system of
4 a controlled substance included in Schedule I or II; or

5 (ii) with respect to a particular individual, that the individual
6 represents or intends to have a stimulant, depressant, or
7 hallucinogenic effect on the central nervous system substantially
8 similar to the stimulant, depressant, or hallucinogenic effect on the
9 central nervous system of a controlled substance included in Schedule
10 I or II.

11 (2) The term does not include:

12 (i) a controlled substance;

13 (ii) a substance for which there is an approved new drug
14 application;

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

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

21 (f) "Deliver" or "delivery," means the actual or constructive
22 transfer from one person to another of a substance, whether or not
23 there is an agency relationship.

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

25 (h) "Dispense" means the interpretation of a prescription or order
26 for a controlled substance and, pursuant to that prescription or order,
27 the proper selection, measuring, compounding, labeling, or packaging
28 necessary to prepare that prescription or order for delivery.

29 (i) "Dispenser" means a practitioner who dispenses.

30 (j) "Distribute" means to deliver other than by administering or
31 dispensing a controlled substance.

32 (k) "Distributor" means a person who distributes.

33 (l) "Drug" means (1) a controlled substance recognized as a drug in
34 the official United States pharmacopoeia/national formulary or the
35 official homeopathic pharmacopoeia of the United States, or any
36 supplement to them; (2) controlled substances intended for use in the
37 diagnosis, cure, mitigation, treatment, or prevention of disease in
38 individuals or animals; (3) controlled substances (other than food)
39 intended to affect the structure or any function of the body of

1 individuals or animals; and (4) controlled substances intended for use
2 as a component of any article specified in (1), (2), or (3) of this
3 subsection. The term does not include devices or their components,
4 parts, or accessories.

5 (m) "Drug enforcement administration" means the drug enforcement
6 administration in the United States Department of Justice, or its
7 successor agency.

8 (n) "Immediate precursor" means a substance:

9 (1) that the state board of pharmacy has found to be and by rule
10 designates as being the principal compound commonly used, or produced
11 primarily for use, in the manufacture of a controlled substance;

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

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

16 (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5),
17 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any
18 geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c)
19 the term includes any positional isomer; and in RCW 69.50.204(a)(35),
20 69.50.204(c), and 69.50.208(a) the term includes any positional or
21 geometric isomer.

22 (p) "Manufacture" means the production, preparation, propagation,
23 compounding, conversion, or processing of a controlled substance,
24 either directly or indirectly or by extraction from substances of
25 natural origin, or independently by means of chemical synthesis, or by
26 a combination of extraction and chemical synthesis, and includes any
27 packaging or repackaging of the substance or labeling or relabeling of
28 its container. The term does not include the preparation, compounding,
29 packaging, repackaging, labeling, or relabeling of a controlled
30 substance:

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

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

37 (q) "Marijuana" or "marihuana" means all parts of the plant
38 Cannabis, whether growing or not; the seeds thereof; the resin
39 extracted from any part of the plant; and every compound, manufacture,

1 salt, derivative, mixture, or preparation of the plant, its seeds or
2 resin. The term does not include the mature stalks of the plant, fiber
3 produced from the stalks, oil or cake made from the seeds of the plant,
4 any other compound, manufacture, salt, derivative, mixture, or
5 preparation of the mature stalks (except the resin extracted
6 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
7 which is incapable of germination.

8 (r) "Narcotic drug" means any of the following, whether produced
9 directly or indirectly by extraction from substances of vegetable
10 origin, or independently by means of chemical synthesis, or by a
11 combination of extraction and chemical synthesis:

12 (1) Opium, opium derivative, and any derivative of opium or opium
13 derivative, including their salts, isomers, and salts of isomers,
14 whenever the existence of the salts, isomers, and salts of isomers is
15 possible within the specific chemical designation. The term does not
16 include the isoquinoline alkaloids of opium.

17 (2) Synthetic opiate and any derivative of synthetic opiate,
18 including their isomers, esters, ethers, salts, and salts of isomers,
19 esters, and ethers, whenever the existence of the isomers, esters,
20 ethers, and salts is possible within the specific chemical designation.

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

22 (4) Coca leaves, except coca leaves and extracts of coca leaves
23 from which cocaine, ecgonine, and derivatives or ecgonine or their
24 salts have been removed.

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

26 (6) Cocaine base.

27 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
28 thereof.

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

31 (s) "Opiate" means any substance having an addiction-forming or
32 addiction-sustaining liability similar to morphine or being capable of
33 conversion into a drug having addiction-forming or addiction-sustaining
34 liability. The term includes opium, substances derived from opium
35 (opium derivatives), and synthetic opiates. The term does not include,
36 unless specifically designated as controlled under RCW 69.50.201, the
37 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
38 (dextromethorphan). The term includes the racemic and levorotatory
39 forms of dextromethorphan.

1 (t) "Opium poppy" means the plant of the species *Papaver somniferum*
2 L., except its seeds.

3 (u) "Person" means individual, corporation, business trust, estate,
4 trust, partnership, association, joint venture, government,
5 governmental subdivision or agency, or any other legal or commercial
6 entity.

7 (v) "Poppy straw" means all parts, except the seeds, of the opium
8 poppy, after mowing.

9 (w) "Practitioner" means:

10 (1) A physician under chapter 18.71 RCW, a physician assistant
11 under chapter 18.71A RCW, an osteopathic physician and surgeon under
12 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric
13 physician and surgeon under chapter 18.22 RCW, a veterinarian under
14 chapter 18.92 RCW, a registered nurse, advanced registered nurse
15 practitioner, or licensed practical nurse under chapter 18.79 RCW, a
16 pharmacist under chapter 18.64 RCW or a scientific investigator under
17 this chapter, licensed, registered or otherwise permitted insofar as is
18 consistent with those licensing laws to distribute, dispense, conduct
19 research with respect to or administer a controlled substance in the
20 course of their professional practice or research in this state.

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

25 (3) A physician licensed to practice medicine and surgery, a
26 physician licensed to practice (~~osteopathy~~) osteopathic medicine and
27 surgery, a dentist licensed to practice dentistry, a podiatric
28 physician and surgeon licensed to practice podiatric medicine and
29 surgery, or a veterinarian licensed to practice veterinary medicine in
30 any state of the United States.

31 (x) "Prescription" means an order for controlled substances issued
32 by a practitioner duly authorized by law or rule in the state of
33 Washington to prescribe controlled substances within the scope of his
34 or her professional practice for a legitimate medical purpose.

35 (y) "Production" includes the manufacturing, planting, cultivating,
36 growing, or harvesting of a controlled substance.

37 (z) "Secretary" means the secretary of health or the secretary's
38 designee.

1 (aa) "State," unless the context otherwise requires, means a state
2 of the United States, the District of Columbia, the Commonwealth of
3 Puerto Rico, or a territory or insular possession subject to the
4 jurisdiction of the United States.

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

9 **Sec. 19.** RCW 70.05.050 and 1993 c 492 s 238 are each amended to
10 read as follows:

11 The local health officer shall be an experienced physician licensed
12 to practice medicine and surgery or ((osteopathy)) osteopathic medicine
13 and surgery in this state and who is qualified or provisionally
14 qualified in accordance with the standards prescribed in RCW 70.05.051
15 through 70.05.055 to hold the office of local health officer. No term
16 of office shall be established for the local health officer but the
17 local health officer shall not be removed until after notice is given,
18 and an opportunity for a hearing before the board or official
19 responsible for his or her appointment under this section as to the
20 reason for his or her removal. The local health officer shall act as
21 executive secretary to, and administrative officer for the local board
22 of health and shall also be empowered to employ such technical and
23 other personnel as approved by the local board of health except where
24 the local board of health has appointed an administrative officer under
25 RCW 70.05.040. The local health officer shall be paid such salary and
26 allowed such expenses as shall be determined by the local board of
27 health.

28 **Sec. 20.** RCW 70.08.030 and 1985 c 124 s 3 are each amended to read
29 as follows:

30 Notwithstanding any provisions to the contrary contained in any
31 city or county charter, the director of public health, under this
32 chapter shall meet as a minimum one of the following standards of
33 educational achievement and vocational experience to be qualified for
34 appointment to the office:

35 (1) Bachelor's degree in business administration, public
36 administration, hospital administration, management, nursing,
37 environmental health, epidemiology, public health, or its equivalent

1 and five years of experience in administration in a community-related
2 field; or

3 (2) A graduate degree in any of the fields listed in subsection (1)
4 of this section, or in medicine or ((osteopathy)) osteopathic medicine
5 and surgery, plus three years of administrative experience in a
6 community-related field.

7 The director shall not engage in the private practice of the
8 director's profession during such tenure of office and shall not be
9 included in the classified civil service of the said city or the said
10 county.

11 If the director of public health does not meet the qualifications
12 of a health officer or a physician under RCW 70.05.050, the director
13 shall employ a person so qualified to advise the director on medical or
14 public health matters.

15 **Sec. 21.** RCW 70.28.031 and 1967 c 54 s 4 are each amended to read
16 as follows:

17 Each health officer is hereby directed to use every available means
18 to ascertain the existence of, and immediately to investigate, all
19 reported or suspected cases of tuberculosis in the infectious stages
20 within his or her jurisdiction and to ascertain the sources of such
21 infections. In carrying out such investigations, each health officer
22 is hereby invested with full powers of inspection, examination and
23 quarantine or isolation of all persons known to be infected with
24 tuberculosis in an infectious stage or persons who have been previously
25 diagnosed as having tuberculosis and who are under medical orders for
26 periodic follow-up examinations and is hereby directed:

27 (a) To make such examinations as are deemed necessary of persons
28 reasonably suspected of having tuberculosis in an infectious stage and
29 to isolate or isolate and quarantine such persons, whenever deemed
30 necessary for the protection of the public health.

31 (b) To make such examinations as deemed necessary of persons who
32 have been previously diagnosed as having tuberculosis and who are under
33 medical orders for periodic follow-up examinations.

34 (c) Follow local rules and regulations regarding examinations,
35 quarantine, or isolation, and all rules, regulations, and orders of the
36 state board and of the department in carrying out such examination,
37 quarantine or isolation.

1 (d) Whenever the health officer shall determine on reasonable
2 grounds that an examination of any person is necessary for the
3 preservation and protection of the public health, he or she shall make
4 an examination order in writing, setting forth the name of the person
5 to be examined, the time and place of the examination, and such other
6 terms and conditions as may be necessary to protect the public health.
7 Nothing contained in this subdivision shall be construed to prevent any
8 person whom the health officer determines should have an examination
9 for infectious tuberculosis from having such an examination made by a
10 physician of his or her own choice who is licensed to practice
11 (~~osteopathy~~) osteopathic medicine and surgery under chapter 18.57 RCW
12 or medicine and surgery under chapter 18.71 RCW under such terms and
13 conditions as the health officer shall determine on reasonable grounds
14 to be necessary to protect the public health.

15 (e) Whenever the health officer shall determine that quarantine or
16 isolation in a particular case is necessary for the preservation and
17 protection of the public health, he or she shall make an isolation or
18 quarantine order in writing, setting forth the name of the person to be
19 isolated, the period of time during which the order shall remain
20 effective, the place of isolation or quarantine, and such other terms
21 and conditions as may be necessary to protect the public health.

22 (f) Upon the making of an examination, isolation, or quarantine
23 order as provided in this section, a copy of such order shall be served
24 upon the person named in such order.

25 (g) Upon the receipt of information that any examination,
26 quarantine, or isolation order, made and served as herein provided, has
27 been violated, the health officer shall advise the prosecuting attorney
28 of the county in which such violation has occurred, in writing, and
29 shall submit to such prosecuting attorney the information in his or her
30 possession relating to the subject matter of such examination,
31 isolation, or quarantine order, and of such violation or violations
32 thereof.

33 (h) Any and all orders authorized under this section shall be made
34 by the health officer or his or her tuberculosis control officer.

35 **Sec. 22.** RCW 70.38.115 and 1993 c 508 s 6 are each amended to read
36 as follows:

37 (1) Certificates of need shall be issued, denied, suspended, or
38 revoked by the designee of the secretary in accord with the provisions

1 of this chapter and rules of the department which establish review
2 procedures and criteria for the certificate of need program.

3 (2) Criteria for the review of certificate of need applications,
4 except as provided in subsection (3) of this section for health
5 maintenance organizations, shall include but not be limited to
6 consideration of the following:

7 (a) The need that the population served or to be served by such
8 services has for such services;

9 (b) The availability of less costly or more effective alternative
10 methods of providing such services;

11 (c) The financial feasibility and the probable impact of the
12 proposal on the cost of and charges for providing health services in
13 the community to be served;

14 (d) In the case of health services to be provided, (i) the
15 availability of alternative uses of project resources for the provision
16 of other health services, (ii) the extent to which such proposed
17 services will be accessible to all residents of the area to be served,
18 and (iii) the need for and the availability in the community of
19 services and facilities for osteopathic physicians and surgeons and
20 allopathic physicians and their patients. The department shall
21 consider the application in terms of its impact on existing and
22 proposed institutional training programs for doctors of ((osteopathy))
23 osteopathic medicine and surgery and medicine at the student,
24 internship, and residency training levels;

25 (e) In the case of a construction project, the costs and methods of
26 the proposed construction, including the cost and methods of energy
27 provision, and the probable impact of the construction project reviewed
28 (i) on the cost of providing health services by the person proposing
29 such construction project and (ii) on the cost and charges to the
30 public of providing health services by other persons;

31 (f) The special needs and circumstances of osteopathic hospitals,
32 nonallopathic services and children's hospitals;

33 (g) Improvements or innovations in the financing and delivery of
34 health services which foster cost containment and serve to promote
35 quality assurance and cost-effectiveness;

36 (h) In the case of health services proposed to be provided, the
37 efficiency and appropriateness of the use of existing services and
38 facilities similar to those proposed;

1 (i) In the case of existing services or facilities, the quality of
2 care provided by such services or facilities in the past;

3 (j) In the case of hospital certificate of need applications,
4 whether the hospital meets or exceeds the regional average level of
5 charity care, as determined by the secretary; and

6 (k) In the case of nursing home applications:

7 (i) The availability of other nursing home beds in the planning
8 area to be served; and

9 (ii) The availability of other services in the community to be
10 served. Data used to determine the availability of other services will
11 include but not be limited to data provided by the department of social
12 and health services.

13 (3) A certificate of need application of a health maintenance
14 organization or a health care facility which is controlled, directly or
15 indirectly, by a health maintenance organization, shall be approved by
16 the department if the department finds:

17 (a) Approval of such application is required to meet the needs of
18 the members of the health maintenance organization and of the new
19 members which such organization can reasonably be expected to enroll;
20 and

21 (b) The health maintenance organization is unable to provide,
22 through services or facilities which can reasonably be expected to be
23 available to the organization, its health services in a reasonable and
24 cost-effective manner which is consistent with the basic method of
25 operation of the organization and which makes such services available
26 on a long-term basis through physicians and other health professionals
27 associated with it.

28 A health care facility, or any part thereof, with respect to which
29 a certificate of need was issued under this subsection may not be sold
30 or leased and a controlling interest in such facility or in a lease of
31 such facility may not be acquired unless the department issues a
32 certificate of need approving the sale, acquisition, or lease.

33 (4) Until the final expiration of the state health plan as provided
34 under RCW 70.38.919, the decision of the department on a certificate of
35 need application shall be consistent with the state health plan in
36 effect, except in emergency circumstances which pose a threat to the
37 public health. The department in making its final decision may issue
38 a conditional certificate of need if it finds that the project is
39 justified only under specific circumstances. The conditions shall

1 directly relate to the project being reviewed. The conditions may be
2 released if it can be substantiated that the conditions are no longer
3 valid and the release of such conditions would be consistent with the
4 purposes of this chapter.

5 (5) Criteria adopted for review in accordance with subsection (2)
6 of this section may vary according to the purpose for which the
7 particular review is being conducted or the type of health service
8 reviewed.

9 (6) The department shall specify information to be required for
10 certificate of need applications. Within fifteen days of receipt of
11 the application, the department shall request additional information
12 considered necessary to the application or start the review process.
13 Applicants may decline to submit requested information through written
14 notice to the department, in which case review starts on the date of
15 receipt of the notice. Applications may be denied or limited because
16 of failure to submit required and necessary information.

17 (7) Concurrent review is for the purpose of comparative analysis
18 and evaluation of competing or similar projects in order to determine
19 which of the projects may best meet identified needs. Categories of
20 projects subject to concurrent review include at least new health care
21 facilities, new services, and expansion of existing health care
22 facilities. The department shall specify time periods for the
23 submission of applications for certificates of need subject to
24 concurrent review, which shall not exceed ninety days. Review of
25 concurrent applications shall start fifteen days after the conclusion
26 of the time period for submission of applications subject to concurrent
27 review. Concurrent review periods shall be limited to one hundred
28 fifty days, except as provided for in rules adopted by the department
29 authorizing and limiting amendment during the course of the review, or
30 for an unresolved pivotal issue declared by the department.

31 (8) Review periods for certificate of need applications other than
32 those subject to concurrent review shall be limited to ninety days.
33 Review periods may be extended up to thirty days if needed by a review
34 agency, and for unresolved pivotal issues the department may extend up
35 to an additional thirty days. A review may be extended in any case if
36 the applicant agrees to the extension.

37 (9) The department or its designee, shall conduct a public hearing
38 on a certificate of need application if requested unless the review is
39 expedited or subject to emergency review. The department by rule shall

1 specify the period of time within which a public hearing must be
2 requested and requirements related to public notice of the hearing,
3 procedures, recordkeeping and related matters.

4 (10) Any applicant denied a certificate of need or whose
5 certificate of need has been suspended or revoked has the right to an
6 adjudicative proceeding. The proceeding is governed by chapter 34.05
7 RCW, the Administrative Procedure Act.

8 (11) An amended certificate of need shall be required for the
9 following modifications of an approved project:

10 (a) A new service requiring review under this chapter;

11 (b) An expansion of a service subject to review beyond that
12 originally approved;

13 (c) An increase in bed capacity;

14 (d) A significant reduction in the scope of a nursing home project
15 without a commensurate reduction in the cost of the nursing home
16 project, or a cost increase (as represented in bids on a nursing home
17 construction project or final cost estimates acceptable to the person
18 to whom the certificate of need was issued) if the total of such
19 increases exceeds twelve percent or fifty thousand dollars, whichever
20 is greater, over the maximum capital expenditure approved. The review
21 of reductions or cost increases shall be restricted to the continued
22 conformance of the nursing home project with the review criteria
23 pertaining to financial feasibility and cost containment.

24 (12) An application for a certificate of need for a nursing home
25 capital expenditure which is determined by the department to be
26 required to eliminate or prevent imminent safety hazards or correct
27 violations of applicable licensure and accreditation standards shall be
28 approved.

29 (13) In the case of an application for a certificate of need to
30 replace existing nursing home beds, all criteria must be met on the
31 same basis as an application for a certificate of need for a new
32 nursing home, except that the need criteria shall be deemed met if the
33 applicant is an existing licensee who proposes to replace existing beds
34 that the licensee has operated for at least one year with the same or
35 fewer number of beds in the same planning area. When an entire nursing
36 home ceases operation, its beds shall be treated as existing nursing
37 home beds for purposes of replacement for eight years or until a
38 certificate of need to replace them is issued, whichever occurs first.
39 However, the nursing home must give notice of its intent to retain the

1 beds to the department of health no later than thirty days after the
2 effective date of the facility's closure.

3 **Sec. 23.** RCW 70.96A.020 and 1994 c 231 s 1 are each amended to
4 read as follows:

5 For the purposes of this chapter the following words and phrases
6 shall have the following meanings unless the context clearly requires
7 otherwise:

8 (1) "Alcoholic" means a person who suffers from the disease of
9 alcoholism.

10 (2) "Alcoholism" means a disease, characterized by a dependency on
11 alcoholic beverages, loss of control over the amount and circumstances
12 of use, symptoms of tolerance, physiological or psychological
13 withdrawal, or both, if use is reduced or discontinued, and impairment
14 of health or disruption of social or economic functioning.

15 (3) "Approved treatment program" means a discrete program of
16 chemical dependency treatment provided by a treatment program certified
17 by the department of social and health services as meeting standards
18 adopted under this chapter.

19 (4) "Chemical dependency" means alcoholism or drug addiction, or
20 dependence on alcohol and one or more other psychoactive chemicals, as
21 the context requires.

22 (5) "Chemical dependency program" means expenditures and activities
23 of the department designed and conducted to prevent or treat alcoholism
24 and other drug addiction, including reasonable administration and
25 overhead.

26 (6) "Department" means the department of social and health
27 services.

28 (7) "Designated chemical dependency specialist" means a person
29 designated by the county alcoholism and other drug addiction program
30 coordinator designated under RCW 70.96A.310 to perform the commitment
31 duties described in RCW 70.96A.140 and qualified to do so by meeting
32 standards adopted by the department.

33 (8) "Director" means the person administering the chemical
34 dependency program within the department.

35 (9) "Drug addict" means a person who suffers from the disease of
36 drug addiction.

37 (10) "Drug addiction" means a disease characterized by a dependency
38 on psychoactive chemicals, loss of control over the amount and

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

5 (11) "Emergency service patrol" means a patrol established under
6 RCW 70.96A.170.

7 (12) "Gravely disabled by alcohol or other drugs" means that a
8 person, as a result of the use of alcohol or other drugs: (a) Is in
9 danger of serious physical harm resulting from a failure to provide for
10 his or her essential human needs of health or safety; or (b) manifests
11 severe deterioration in routine functioning evidenced by a repeated and
12 escalating loss of cognition or volitional control over his or her
13 actions and is not receiving care as essential for his or her health or
14 safety.

15 (13) "Incapacitated by alcohol or other psychoactive chemicals"
16 means that a person, as a result of the use of alcohol or other
17 psychoactive chemicals, has his or her judgment so impaired that he or
18 she is incapable of realizing and making a rational decision with
19 respect to his or her need for treatment and presents a likelihood of
20 serious harm to himself or herself, to any other person, or to
21 property.

22 (14) "Incompetent person" means a person who has been adjudged
23 incompetent by the superior court.

24 (15) "Intoxicated person" means a person whose mental or physical
25 functioning is substantially impaired as a result of the use of alcohol
26 or other psychoactive chemicals.

27 (16) "Licensed physician" means a person licensed to practice
28 medicine or ((osteopathy)) osteopathic medicine and surgery in the
29 state of Washington.

30 (17) "Likelihood of serious harm" means either: (a) A substantial
31 risk that physical harm will be inflicted by an individual upon his or
32 her own person, as evidenced by threats or attempts to commit suicide
33 or inflict physical harm on one's self; (b) a substantial risk that
34 physical harm will be inflicted by an individual upon another, as
35 evidenced by behavior that has caused the harm or that places another
36 person or persons in reasonable fear of sustaining the harm; or (c) a
37 substantial risk that physical harm will be inflicted by an individual
38 upon the property of others, as evidenced by behavior that has caused
39 substantial loss or damage to the property of others.

1 (18) "Minor" means a person less than eighteen years of age.

2 (19) "Peace officer" means a law enforcement official of a public
3 agency or governmental unit, and includes persons specifically given
4 peace officer powers by any state law, local ordinance, or judicial
5 order of appointment.

6 (20) "Person" means an individual, including a minor.

7 (21) "Secretary" means the secretary of the department of social
8 and health services.

9 (22) "Treatment" means the broad range of emergency,
10 detoxification, residential, and outpatient services and care,
11 including diagnostic evaluation, chemical dependency education and
12 counseling, medical, psychiatric, psychological, and social service
13 care, vocational rehabilitation and career counseling, which may be
14 extended to alcoholics and other drug addicts and their families,
15 persons incapacitated by alcohol or other psychoactive chemicals, and
16 intoxicated persons.

17 (23) "Treatment program" means an organization, institution, or
18 corporation, public or private, engaged in the care, treatment, or
19 rehabilitation of alcoholics or other drug addicts.

20 **Sec. 24.** RCW 70.124.020 and 1981 c 174 s 2 are each amended to
21 read as follows:

22 Unless the context requires otherwise, the definitions in this
23 section apply throughout this chapter.

24 (1) "Court" means the superior court of the state of Washington.

25 (2) "Law enforcement agency" means the police department, the
26 director of public safety, or the office of the sheriff.

27 (3) "Practitioner of the healing arts" or "practitioner" means a
28 person licensed by this state to practice ((~~podiatry~~)) podiatric
29 medicine and surgery, optometry, pharmacy, physical therapy,
30 chiropractic, nursing, dentistry, ((~~osteopathy~~)) osteopathic medicine
31 and surgery, or medicine and surgery. The term "practitioner" shall
32 include a nurses aide, a nursing home administrator licensed under
33 chapter 18.52 RCW, and a duly accredited Christian Science
34 practitioner: PROVIDED, HOWEVER, That a nursing home patient who is
35 being furnished Christian Science treatment by a duly accredited
36 Christian Science practitioner shall not be considered, for that reason
37 alone, a neglected patient for the purposes of this chapter.

1 (4) "Department" means the state department of social and health
2 services.

3 (5) "Nursing home" has the meaning prescribed by RCW 18.51.010.

4 (6) "Social worker" means anyone engaged in a professional capacity
5 during the regular course of employment in encouraging or promoting the
6 health, welfare, support, or education of nursing home patients, or
7 providing social services to nursing home patients, whether in an
8 individual capacity or as an employee or agent of any public or private
9 organization or institution.

10 (7) "Psychologist" means any person licensed to practice psychology
11 under chapter 18.83 RCW, whether acting in an individual capacity or as
12 an employee or agent of any public or private organization or
13 institution.

14 (8) "Pharmacist" means any registered pharmacist under chapter
15 18.64 RCW, whether acting in an individual capacity or as an employee
16 or agent of any public or private organization or institution.

17 (9) "Abuse or neglect" or "patient abuse or neglect" means the
18 nonaccidental physical injury or condition, sexual abuse, or negligent
19 treatment of a nursing home or state hospital patient under
20 circumstances which indicate that the patient's health, welfare, and
21 safety is harmed thereby.

22 (10) "Negligent treatment" means an act or omission which evinces
23 a serious disregard of consequences of such magnitude as to constitute
24 a clear and present danger to the patient's health, welfare, and
25 safety.

26 (11) "State hospital" means any hospital operated and maintained by
27 the state for the care of the mentally ill under chapter 72.23 RCW.

28 NEW SECTION. **Sec. 25.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and shall take
31 effect July 1, 1995.

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