
SENATE BILL 6396

State of Washington

54th Legislature

1996 Regular Session

By Senators Quigley, Moyer and Heavey

Read first time 01/15/96. Referred to Committee on Health & Long-Term 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, 43.43.830, 48.46.170, 49.78.020, 68.50.530,
5 69.41.010, 69.41.030, 69.50.101, 70.05.050, 70.08.030, 70.28.031,
6 70.38.115, 70.96A.020, and 70.124.020; reenacting and amending RCW
7 18.120.020, 26.44.020, and 41.26.030; and providing an effective date.

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

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

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

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

16 (a) Using or causing or promoting the use of, in any advertising
17 matter, promotional literature, testimonial, guarantee, warranty,
18 label, brand, insignia, or any other representation, however
19 disseminated or published, which is false, misleading or deceptive;

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

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

10 (d) Falsifying hearing test or evaluation results;

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

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

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

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

25 (D) Acute or chronic dizziness;

26 (E) Any unilateral hearing loss;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 As used in this chapter:

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

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

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

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

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

35 On all cards, signs, letterheads, envelopes and billheads used by
36 those licensed by this chapter to practice (~~osteopathy or osteopathy~~)
37 osteopathic medicine and surgery the word "osteopathic" shall always

1 immediately precede the word "physician" and if the word "surgeon" is
2 used in connection with said name, the word "osteopathic" shall also
3 immediately precede said word "surgeon."

4 **Sec. 4.** RCW 18.71.030 and 1995 c 65 s 1 are each amended to read
5 as follows:

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

9 (1) The furnishing of medical assistance in cases of emergency
10 requiring immediate attention;

11 (2) The domestic administration of family remedies;

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

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

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

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

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

35 (8) The practice of medicine by a person serving a period of
36 postgraduate medical training in a program of clinical medical training
37 sponsored by a college or university in this state or by a hospital

1 accredited in this state, however, the performance of such services
2 shall be only pursuant to his or her duties as a trainee;

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

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

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

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

24 (13) Emergency lifesaving service rendered by a physician's trained
25 emergency medical service intermediate life support technician and
26 paramedic, as defined in RCW 18.71.200, if the emergency lifesaving
27 service is rendered under the responsible supervision and control of a
28 licensed physician;

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

32 **Sec. 5.** RCW 18.71.055 and 1994 sp.s. c 9 s 309 are each amended to
33 read as follows:

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

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

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

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

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

14 (4) Nothing in this section shall be construed to authorize the
15 commission to approve a school of ((osteopathy,—osteopathy))
16 osteopathic medicine and surgery, or osteopathic medicine, for purposes
17 of qualifying an applicant to be licensed under this chapter by direct
18 licensure, reciprocity, or otherwise.

19 **Sec. 6.** RCW 18.71.205 and 1995 c 65 s 3 are each amended to read
20 as follows:

21 (1) The secretary of the department of health, in conjunction with
22 the advice and assistance of the emergency medical services licensing
23 and certification advisory committee as prescribed in RCW 18.73.050,
24 and the commission, shall prescribe:

25 (a) Practice parameters, training standards for, and levels of,
26 physician trained emergency medical service intermediate life support
27 technicians and paramedics;

28 (b) Minimum standards and performance requirements for the
29 certification and recertification of physician's trained emergency
30 medical service intermediate life support technicians and paramedics;
31 and

32 (c) Procedures for certification, recertification, and
33 decertification of physician's trained emergency medical service
34 intermediate life support technicians and paramedics.

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

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

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

3 (a) Is licensed to practice medicine and surgery pursuant to
4 chapter 18.71 RCW or (~~(osteopathy)~~) osteopathic medicine and surgery
5 pursuant to chapter 18.57 RCW; and

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

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

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

19 (6) Such activities of (~~(physician[\'s])~~) physician\'s trained
20 emergency medical service intermediate life support technicians and
21 paramedics shall be limited to actions taken under the express written
22 or oral order of medical program directors and shall not be construed
23 at any time to include free standing or nondirected actions, for
24 actions not presenting an emergency or life-threatening condition.

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

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter:

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

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

37 (3) "Poison information specialist" means a person who provides
38 services enumerated under RCW 18.76.030 (~~(and 18.76.040)~~) under the

1 supervision of a poison information center medical director and is
2 certified by the secretary under standards adopted under RCW 18.76.050.

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

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

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

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

18 **Sec. 9.** RCW 18.120.020 and 1995 c 323 s 15 and 1995 c 1 s 18
19 (Initiative Measure No. 607) are each reenacted and amended to read as
20 follows:

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

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

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

33 (3) "Grandfather clause" means a provision in a regulatory statute
34 applicable to practitioners actively engaged in the regulated health
35 profession prior to the effective date of the regulatory statute which
36 exempts the practitioners from meeting the prerequisite qualifications

1 set forth in the regulatory statute to perform prescribed occupational
2 tasks.

3 (4) "Health professions" means and includes the following health
4 and health-related licensed or regulated professions and occupations:
5 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
6 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
7 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;
8 dispensing opticians under chapter 18.34 RCW; hearing aids under
9 chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and
10 funeral directing under chapter 18.39 RCW; midwifery under chapter
11 18.50 RCW; nursing home administration under chapter 18.52 RCW;
12 optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter
13 18.55 RCW; (~~osteopathy and~~) osteopathic medicine and surgery under
14 chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A
15 RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine
16 under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW;
17 practical nurses under chapter 18.79 RCW; psychologists under chapter
18 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational
19 therapists licensed under chapter 18.59 RCW; respiratory care
20 practitioners certified under chapter 18.89 RCW; veterinarians and
21 animal technicians under chapter 18.92 RCW; health care assistants
22 under chapter 18.135 RCW; massage practitioners under chapter 18.108
23 RCW; acupuncturists licensed under chapter 18.06 RCW; persons
24 registered or certified under chapter 18.19 RCW; dietitians and
25 nutritionists certified by chapter 18.138 RCW; radiologic technicians
26 under chapter 18.84 RCW; and nursing assistants registered or certified
27 under chapter 18.88A RCW.

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

32 (6) "Legislative committees of reference" means the standing
33 legislative committees designated by the respective rules committees of
34 the senate and house of representatives to consider proposed
35 legislation to regulate health professions not previously regulated.

36 (7) "License," "licensing," and "licensure" mean permission to
37 engage in a health profession which would otherwise be unlawful in the
38 state in the absence of the permission. A license is granted to those

1 individuals who meet prerequisite qualifications to perform prescribed
2 health professional tasks and for the use of a particular title.

3 (8) "Professional license" means an individual, nontransferable
4 authorization to carry on a health activity based on qualifications
5 which include: (a) Graduation from an accredited or approved program,
6 and (b) acceptable performance on a qualifying examination or series of
7 examinations.

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

11 (10) "Public member" means an individual who is not, and never was,
12 a member of the health profession being regulated or the spouse of a
13 member, or an individual who does not have and never has had a material
14 financial interest in either the rendering of the health professional
15 service being regulated or an activity directly related to the
16 profession being regulated.

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

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

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

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

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

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

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

1 (3) "Practitioner of the healing arts" or "practitioner" means a
2 person licensed by this state to practice podiatric medicine and
3 surgery, optometry, chiropractic, nursing, dentistry, ((osteopathy))
4 osteopathic medicine and surgery, or medicine and surgery or to provide
5 other health services. The term "practitioner" shall include a duly
6 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a
7 person who is being furnished Christian Science treatment by a duly
8 accredited Christian Science practitioner shall not be considered, for
9 that reason alone, a neglected person for the purposes of this chapter.

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

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

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

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

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

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

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

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

38 (12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual
39 exploitation, negligent treatment, or maltreatment of a child, adult

1 dependent, or developmentally disabled person by any person under
2 circumstances which indicate that the child's or adult's health,
3 welfare, and safety is harmed. An abused child is a child who has been
4 subjected to child abuse or neglect as defined herein.

5 (13) "Child protective services section" shall mean the child
6 protective services section of the department.

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

10 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
11 encouraging a child to engage in prostitution by any person; or (b)
12 allowing, permitting, encouraging, or engaging in the obscene or
13 pornographic photographing, filming, or depicting of a child by any
14 person.

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

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

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

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

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

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

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

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

9 (2)(a) "Employer" for plan I members, means the legislative
10 authority of any city, town, county, or district or the elected
11 officials of any municipal corporation that employs any law enforcement
12 officer and/or fire fighter, any authorized association of such
13 municipalities, and, except for the purposes of RCW 41.26.150, any
14 labor guild, association, or organization, which represents the fire
15 fighters or law enforcement officers of at least seven cities of over
16 20,000 population and the membership of each local lodge or division of
17 which is composed of at least sixty percent law enforcement officers or
18 fire fighters as defined in this chapter.

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

22 (i) The legislative authority of any city, town, county, or
23 district;

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

25 (iii) The governing body of any other general authority law
26 enforcement agency.

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

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

34 (b) Only those deputy sheriffs, including those serving under a
35 different title pursuant to county charter, who have successfully
36 completed a civil service examination for deputy sheriff or the
37 equivalent position, where a different title is used, and those persons

1 serving in unclassified positions authorized by RCW 41.14.070 except a
2 private secretary will be considered law enforcement officers;

3 (c) Only such full time commissioned law enforcement personnel as
4 have been appointed to offices, positions, or ranks in the police
5 department which have been specifically created or otherwise expressly
6 provided for and designated by city charter provision or by ordinance
7 enacted by the legislative body of the city shall be considered city
8 police officers;

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

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

23 (4) "Fire fighter" means:

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

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

30 (c) Supervisory fire fighter personnel;

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

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

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

5 (g) Any person who on March 1, 1970, was employed on a full time,
6 fully compensated basis by an employer, and who on May 21, 1971, was
7 making retirement contributions under the provisions of chapter 41.16
8 or 41.18 RCW.

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

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

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

18 (i) A natural born child;

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

21 (iii) A posthumous child;

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

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

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

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

1 (9) "Retirement fund" means the "Washington law enforcement
2 officers' and fire fighters' retirement system fund" as provided for
3 herein.

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

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

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

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

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

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

37 (b) "Basic salary" for plan II members, means salaries or wages
38 earned by a member during a payroll period for personal services,
39 including overtime payments, and shall include wages and salaries

1 deferred under provisions established pursuant to sections 403(b),
2 414(h), and 457 of the United States Internal Revenue Code, but shall
3 exclude lump sum payments for deferred annual sick leave, unused
4 accumulated vacation, unused accumulated annual leave, or any form of
5 severance pay. In any year in which a member serves in the legislature
6 the member shall have the option of having such member's basic salary
7 be the greater of:

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

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

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

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

1 time credit is claimed therefor, is also creditable under the
2 provisions of such prior act.

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

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

15 Members of the retirement system who are elected or appointed to a
16 state elective position may elect to continue to be members of this
17 retirement system.

18 Service credit years of service shall be determined by dividing the
19 total number of service credit months of service by twelve. Any
20 fraction of a service credit year of service as so determined shall be
21 taken into account in the computation of such retirement allowance or
22 benefits.

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

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

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

1 (17) "Actuarial valuation" means a mathematical determination of
2 the financial condition of a retirement plan. It includes the
3 computation of the present monetary value of benefits payable to
4 present members, and the present monetary value of future employer and
5 employee contributions, giving effect to mortality among active and
6 retired members and also to the rates of disability, retirement,
7 withdrawal from service, salary and interest earned on investments.

8 (18) "Disability board" for plan I members means either the county
9 disability board or the city disability board established in RCW
10 41.26.110.

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

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

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

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

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

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

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

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

34 (i) The fees of the following:

35 (A) A physician or surgeon licensed under the provisions of chapter
36 18.71 RCW;

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

1 (C) A chiropractor licensed under the provisions of chapter 18.25
2 RCW.

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

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

7 (A) Drugs and medicines upon a physician's prescription;

8 (B) Diagnostic x-ray and laboratory examinations;

9 (C) X-ray, radium, and radioactive isotopes therapy;

10 (D) Anesthesia and oxygen;

11 (E) Rental of iron lung and other durable medical and surgical
12 equipment;

13 (F) Artificial limbs and eyes, and casts, splints, and trusses;

14 (G) Professional ambulance service when used to transport the
15 member to or from a hospital when injured by an accident or stricken by
16 a disease;

17 (H) Dental charges incurred by a member who sustains an accidental
18 injury to his or her teeth and who commences treatment by a legally
19 licensed dentist within ninety days after the accident;

20 (I) Nursing home confinement or hospital extended care facility;

21 (J) Physical therapy by a registered physical therapist;

22 (K) Blood transfusions, including the cost of blood and blood
23 plasma not replaced by voluntary donors;

24 (L) An optometrist licensed under the provisions of chapter 18.53
25 RCW.

26 (23) "Regular interest" means such rate as the director may
27 determine.

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

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

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

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

38 (28) "Plan I" means the law enforcement officers' and fire
39 fighters' retirement system, plan I providing the benefits and funding

1 provisions covering persons who first became members of the system
2 prior to October 1, 1977.

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

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

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

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

27 **Sec. 12.** RCW 43.43.830 and 1995 c 250 s 1 are each amended to read
28 as follows:

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

31 (1) "Applicant" means:

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

36 (b) Any prospective volunteer who will have regularly scheduled
37 unsupervised access to children under sixteen years of age,
38 developmentally disabled persons, or vulnerable adults during the

1 course of his or her employment or involvement with the business or
2 organization under circumstances where such access will or may involve
3 groups of (i) five or fewer children under twelve years of age, (ii)
4 three or fewer children between twelve and sixteen years of age, (iii)
5 developmentally disabled persons, or (iv) vulnerable adults; or

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

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

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

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

37 (5) "Crime against children or other persons" means a conviction of
38 any of the following offenses: Aggravated murder; first or second
39 degree murder; first or second degree kidnaping; first, second, or

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

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

22 (7) "Disciplinary board final decision" means any final decision
23 issued by a disciplining authority under chapter 18.130 RCW or the
24 secretary of the department of health for the following businesses or
25 professions:

- 26 (a) Chiropractic;
- 27 (b) Dentistry;
- 28 (c) Dental hygiene;
- 29 (d) Massage;
- 30 (e) Midwifery;
- 31 (f) Naturopathy;
- 32 (g) (~~Osteopathy~~) Osteopathic medicine and surgery;
- 33 (h) Physical therapy;
- 34 (i) Physicians;
- 35 (j) Practical nursing;
- 36 (k) Registered nursing; and
- 37 (l) Psychology.

1 "Disciplinary board final decision," for real estate brokers and
2 salespersons, means any final decision issued by the director of the
3 department of licensing for real estate brokers and salespersons.

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

5 (a) Another employee or volunteer from the same business or
6 organization as the applicant; or

7 (b) Any relative or guardian of any of the children or
8 developmentally disabled persons or vulnerable adults to which the
9 applicant has access during the course of his or her employment or
10 involvement with the business or organization.

11 (9) "Vulnerable adult" means "vulnerable adult" as defined in
12 chapter 74.34 RCW, except that for the purposes of requesting and
13 receiving background checks pursuant to RCW 43.43.832, it shall also
14 include adults of any age who lack the functional, mental, or physical
15 ability to care for themselves.

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

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

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

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

28 (2) Any health maintenance organization authorized under this
29 chapter shall not be deemed to be violating any law prohibiting the
30 practice by unlicensed persons of (~~podiatry~~) podiatric medicine and
31 surgery, chiropractic, dental hygiene, opticianary, dentistry,
32 optometry, (~~osteopathy~~) osteopathic medicine and surgery, pharmacy,
33 medicine and surgery, physical therapy, nursing, or psychology:
34 PROVIDED, That this subsection shall not be construed to expand a
35 health professional's scope of practice or to allow employees of a
36 health maintenance organization to practice as a health professional
37 unless licensed.

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

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

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

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

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

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

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

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

32 (5) "Family leave" means leave from employment to care for a
33 newborn or newly adopted child under the age of six or a child under
34 eighteen years old with a terminal health condition, as provided in RCW
35 49.78.030.

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

1 (7) "Parent" means a biological or adoptive parent, or a
2 stepparent.

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

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

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

11 Unless the context requires otherwise, the definitions in this
12 section apply throughout RCW 68.50.520 through 68.50.630 and 68.50.901
13 through 68.50.904.

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

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

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

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

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

24 (6) "Hospital" means a facility licensed under chapter 70.41 RCW,
25 or as a hospital under the law of any state or a facility operated as
26 a hospital by the United States government, a state, or a subdivision
27 of a state.

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

30 (8) "Person" means an individual, corporation, business trust,
31 estate, trust, partnership, joint venture, association, government,
32 governmental subdivision or agency, or any other legal or commercial
33 entity.

34 (9) "Physician" or "surgeon" means an individual licensed or
35 otherwise authorized to practice medicine and surgery or ((osteopathy))
36 osteopathic medicine and surgery under chapters 18.71 and 18.57 RCW.

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

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

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

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

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

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

15 (a) A practitioner; or

16 (b) The patient or research subject at the direction of the
17 practitioner.

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

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

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

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

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

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

30 (8) "Drug" means:

31 (a) Substances recognized as drugs in the official United States
32 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
33 or official national formulary, or any supplement to any of them;

34 (b) Substances intended for use in the diagnosis, cure, mitigation,
35 treatment, or prevention of disease in man or animals;

36 (c) Substances (other than food, minerals or vitamins) intended to
37 affect the structure or any function of the body of man or animals; and

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

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

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

10 (11) "Practitioner" means:

11 (a) A physician under chapter 18.71 RCW, an osteopathic physician
12 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
13 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
14 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
15 registered nurse, advanced registered nurse practitioner, or licensed
16 practical nurse under chapter 18.79 RCW, an optometrist under chapter
17 18.53 RCW who is certified by the optometry board under RCW 18.53.010,
18 an osteopathic physician assistant under chapter 18.57A RCW, a
19 physician assistant under chapter 18.71A RCW, or a pharmacist under
20 chapter 18.64 RCW;

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

25 (c) A physician licensed to practice medicine and surgery or a
26 physician licensed to practice (~~(osteopathy)~~) osteopathic medicine and
27 surgery in any state, or province of Canada, which shares a common
28 border with the state of Washington.

29 (12) "Secretary" means the secretary of health or the secretary's
30 designee.

31 **Sec. 17.** RCW 69.41.030 and 1994 sp.s. c 9 s 737 are each amended
32 to read as follows:

33 It shall be unlawful for any person to sell, deliver, or possess
34 any legend drug except upon the order or prescription of a physician
35 under chapter 18.71 RCW, (~~(an osteopathic physician or)~~) an osteopathic
36 physician and surgeon under chapter 18.57 RCW, a dentist under chapter
37 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW,
38 a veterinarian under chapter 18.92 RCW, a commissioned medical or

1 dental officer in the United States armed forces or public health
2 service in the discharge of his or her official duties, a duly licensed
3 physician or dentist employed by the veterans administration in the
4 discharge of his or her official duties, a registered nurse or advanced
5 registered nurse practitioner under chapter 18.79 RCW when authorized
6 by the nursing care quality assurance commission, an osteopathic
7 physician assistant under chapter 18.57A RCW when authorized by the
8 board of osteopathic (~~examiners~~) medicine and surgery, a physician
9 assistant under chapter 18.71A RCW when authorized by the medical
10 quality assurance commission, a physician licensed to practice medicine
11 and surgery or a physician licensed to practice (~~osteopathy~~)
12 osteopathic medicine and surgery, a dentist licensed to practice
13 dentistry, a podiatric physician and surgeon licensed to practice
14 podiatric medicine and surgery, or a veterinarian licensed to practice
15 veterinary medicine, in any province of Canada which shares a common
16 border with the state of Washington or in any state of the United
17 States: PROVIDED, HOWEVER, That the above provisions shall not apply
18 to sale, delivery, or possession by drug wholesalers or drug
19 manufacturers, or their agents or employees, or to any practitioner
20 acting within the scope of his or her license, or to a common or
21 contract carrier or warehouseman, or any employee thereof, whose
22 possession of any legend drug is in the usual course of business or
23 employment: PROVIDED FURTHER, That nothing in this chapter or chapter
24 18.64 RCW shall prevent a family planning clinic that is under contract
25 with the department of social and health services from selling,
26 delivering, possessing, and dispensing commercially prepackaged oral
27 contraceptives prescribed by authorized, licensed health care
28 practitioners.

29 **Sec. 18.** RCW 69.50.101 and 1994 sp.s. c 9 s 739 are each amended
30 to read as follows:

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

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

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

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

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

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

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

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

14 (i) that has a stimulant, depressant, or hallucinogenic effect on
15 the central nervous system substantially similar to the stimulant,
16 depressant, or hallucinogenic effect on the central nervous system of
17 a controlled substance included in Schedule I or II; or

18 (ii) with respect to a particular individual, that the individual
19 represents or intends to have a stimulant, depressant, or
20 hallucinogenic effect on the central nervous system substantially
21 similar to the stimulant, depressant, or hallucinogenic effect on the
22 central nervous system of a controlled substance included in Schedule
23 I or II.

24 (2) The term does not include:

25 (i) a controlled substance;

26 (ii) a substance for which there is an approved new drug
27 application;

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

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

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

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

38 (h) "Dispense" means the interpretation of a prescription or order
39 for a controlled substance and, pursuant to that prescription or order,

1 the proper selection, measuring, compounding, labeling, or packaging
2 necessary to prepare that prescription or order for delivery.

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

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

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

7 (l) "Drug" means (1) a controlled substance recognized as a drug in
8 the official United States pharmacopoeia/national formulary or the
9 official homeopathic pharmacopoeia of the United States, or any
10 supplement to them; (2) controlled substances intended for use in the
11 diagnosis, cure, mitigation, treatment, or prevention of disease in
12 individuals or animals; (3) controlled substances (other than food)
13 intended to affect the structure or any function of the body of
14 individuals or animals; and (4) controlled substances intended for use
15 as a component of any article specified in (1), (2), or (3) of this
16 subsection. The term does not include devices or their components,
17 parts, or accessories.

18 (m) "Drug enforcement administration" means the drug enforcement
19 administration in the United States Department of Justice, or its
20 successor agency.

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

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

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

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

29 (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5),
30 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any
31 geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c)
32 the term includes any positional isomer; and in RCW 69.50.204(a)(35),
33 69.50.204(c), and 69.50.208(a) the term includes any positional or
34 geometric isomer.

35 (p) "Manufacture" means the production, preparation, propagation,
36 compounding, conversion, or processing of a controlled substance,
37 either directly or indirectly or by extraction from substances of
38 natural origin, or independently by means of chemical synthesis, or by
39 a combination of extraction and chemical synthesis, and includes any

1 packaging or repackaging of the substance or labeling or relabeling of
2 its container. The term does not include the preparation, compounding,
3 packaging, repackaging, labeling, or relabeling of a controlled
4 substance:

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

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

11 (q) "Marijuana" or "marihuana" means all parts of the plant
12 Cannabis, whether growing or not; the seeds thereof; the resin
13 extracted from any part of the plant; and every compound, manufacture,
14 salt, derivative, mixture, or preparation of the plant, its seeds or
15 resin. The term does not include the mature stalks of the plant, fiber
16 produced from the stalks, oil or cake made from the seeds of the plant,
17 any other compound, manufacture, salt, derivative, mixture, or
18 preparation of the mature stalks (except the resin extracted
19 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
20 which is incapable of germination.

21 (r) "Narcotic drug" means any of the following, whether produced
22 directly or indirectly by extraction from substances of vegetable
23 origin, or independently by means of chemical synthesis, or by a
24 combination of extraction and chemical synthesis:

25 (1) Opium, opium derivative, and any derivative of opium or opium
26 derivative, including their salts, isomers, and salts of isomers,
27 whenever the existence of the salts, isomers, and salts of isomers is
28 possible within the specific chemical designation. The term does not
29 include the isoquinoline alkaloids of opium.

30 (2) Synthetic opiate and any derivative of synthetic opiate,
31 including their isomers, esters, ethers, salts, and salts of isomers,
32 esters, and ethers, whenever the existence of the isomers, esters,
33 ethers, and salts is possible within the specific chemical designation.

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

35 (4) Coca leaves, except coca leaves and extracts of coca leaves
36 from which cocaine, ecgonine, and derivatives or ecgonine or their
37 salts have been removed.

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

39 (6) Cocaine base.

1 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
2 thereof.

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

5 (s) "Opiate" means any substance having an addiction-forming or
6 addiction-sustaining liability similar to morphine or being capable of
7 conversion into a drug having addiction-forming or addiction-sustaining
8 liability. The term includes opium, substances derived from opium
9 (opium derivatives), and synthetic opiates. The term does not include,
10 unless specifically designated as controlled under RCW 69.50.201, the
11 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
12 (dextromethorphan). The term includes the racemic and levorotatory
13 forms of dextromethorphan.

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

16 (u) "Person" means individual, corporation, business trust, estate,
17 trust, partnership, association, joint venture, government,
18 governmental subdivision or agency, or any other legal or commercial
19 entity.

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

22 (w) "Practitioner" means:

23 (1) A physician under chapter 18.71 RCW, a physician assistant
24 under chapter 18.71A RCW, an osteopathic physician and surgeon under
25 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric
26 physician and surgeon under chapter 18.22 RCW, a veterinarian under
27 chapter 18.92 RCW, a registered nurse, advanced registered nurse
28 practitioner, or licensed practical nurse under chapter 18.79 RCW, a
29 pharmacist under chapter 18.64 RCW or a scientific investigator under
30 this chapter, licensed, registered or otherwise permitted insofar as is
31 consistent with those licensing laws to distribute, dispense, conduct
32 research with respect to or administer a controlled substance in the
33 course of their professional practice or research in this state.

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

38 (3) A physician licensed to practice medicine and surgery, a
39 physician licensed to practice (~~osteopathy~~) osteopathic medicine and

1 surgery, a dentist licensed to practice dentistry, a podiatric
2 physician and surgeon licensed to practice podiatric medicine and
3 surgery, or a veterinarian licensed to practice veterinary medicine in
4 any state of the United States.

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

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

11 (z) "Secretary" means the secretary of health or the secretary's
12 designee.

13 (aa) "State," unless the context otherwise requires, means a state
14 of the United States, the District of Columbia, the Commonwealth of
15 Puerto Rico, or a territory or insular possession subject to the
16 jurisdiction of the United States.

17 (bb) "Ultimate user" means an individual who lawfully possesses a
18 controlled substance for the individual's own use or for the use of a
19 member of the individual's household or for administering to an animal
20 owned by the individual or by a member of the individual's household.

21 **Sec. 19.** RCW 70.05.050 and 1995 c 43 s 8 are each amended to read
22 as follows:

23 The local health officer shall be an experienced physician licensed
24 to practice medicine and surgery or (~~osteopathy~~) osteopathic medicine
25 and surgery in this state and who is qualified or provisionally
26 qualified in accordance with the standards prescribed in RCW 70.05.051
27 through 70.05.055 to hold the office of local health officer. No term
28 of office shall be established for the local health officer but the
29 local health officer shall not be removed until after notice is given,
30 and an opportunity for a hearing before the board or official
31 responsible for his or her appointment under this section as to the
32 reason for his or her removal. The local health officer shall act as
33 executive secretary to, and administrative officer for the local board
34 of health and shall also be empowered to employ such technical and
35 other personnel as approved by the local board of health except where
36 the local board of health has appointed an administrative officer under
37 RCW 70.05.040. The local health officer shall be paid such salary and
38 allowed such expenses as shall be determined by the local board of

1 health. In home rule counties that are part of a health district under
2 this chapter and chapter 70.46 RCW the local health officer and
3 administrative officer shall be appointed by the local board of health.

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

6 Notwithstanding any provisions to the contrary contained in any
7 city or county charter, the director of public health, under this
8 chapter shall meet as a minimum one of the following standards of
9 educational achievement and vocational experience to be qualified for
10 appointment to the office:

11 (1) Bachelor's degree in business administration, public
12 administration, hospital administration, management, nursing,
13 environmental health, epidemiology, public health, or its equivalent
14 and five years of experience in administration in a community-related
15 field; or

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

20 The director shall not engage in the private practice of the
21 director's profession during such tenure of office and shall not be
22 included in the classified civil service of the said city or the said
23 county.

24 If the director of public health does not meet the qualifications
25 of a health officer or a physician under RCW 70.05.050, the director
26 shall employ a person so qualified to advise the director on medical or
27 public health matters.

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

30 Each health officer is hereby directed to use every available means
31 to ascertain the existence of, and immediately to investigate, all
32 reported or suspected cases of tuberculosis in the infectious stages
33 within his or her jurisdiction and to ascertain the sources of such
34 infections. In carrying out such investigations, each health officer
35 is hereby invested with full powers of inspection, examination and
36 quarantine or isolation of all persons known to be infected with
37 tuberculosis in an infectious stage or persons who have been previously

1 diagnosed as having tuberculosis and who are under medical orders for
2 periodic follow-up examinations and is hereby directed:

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

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

10 (c) Follow local rules and regulations regarding examinations,
11 quarantine, or isolation, and all rules, regulations, and orders of the
12 state board and of the department in carrying out such examination,
13 quarantine or isolation.

14 (d) Whenever the health officer shall determine on reasonable
15 grounds that an examination of any person is necessary for the
16 preservation and protection of the public health, he or she shall make
17 an examination order in writing, setting forth the name of the person
18 to be examined, the time and place of the examination, and such other
19 terms and conditions as may be necessary to protect the public health.
20 Nothing contained in this subdivision shall be construed to prevent any
21 person whom the health officer determines should have an examination
22 for infectious tuberculosis from having such an examination made by a
23 physician of his or her own choice who is licensed to practice
24 ((osteopathy)) osteopathic medicine and surgery under chapter 18.57 RCW
25 or medicine and surgery under chapter 18.71 RCW under such terms and
26 conditions as the health officer shall determine on reasonable grounds
27 to be necessary to protect the public health.

28 (e) Whenever the health officer shall determine that quarantine or
29 isolation in a particular case is necessary for the preservation and
30 protection of the public health, he or she shall make an isolation or
31 quarantine order in writing, setting forth the name of the person to be
32 isolated, the period of time during which the order shall remain
33 effective, the place of isolation or quarantine, and such other terms
34 and conditions as may be necessary to protect the public health.

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

38 (g) Upon the receipt of information that any examination,
39 quarantine, or isolation order, made and served as herein provided, has

1 been violated, the health officer shall advise the prosecuting attorney
2 of the county in which such violation has occurred, in writing, and
3 shall submit to such prosecuting attorney the information in his or her
4 possession relating to the subject matter of such examination,
5 isolation, or quarantine order, and of such violation or violations
6 thereof.

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

9 **Sec. 22.** RCW 70.38.115 and 1995 1st sp.s. c 18 s 72 are each
10 amended to read as follows:

11 (1) Certificates of need shall be issued, denied, suspended, or
12 revoked by the designee of the secretary in accord with the provisions
13 of this chapter and rules of the department which establish review
14 procedures and criteria for the certificate of need program.

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

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

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

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

26 (d) In the case of health services to be provided, (i) the
27 availability of alternative uses of project resources for the provision
28 of other health services, (ii) the extent to which such proposed
29 services will be accessible to all residents of the area to be served,
30 and (iii) the need for and the availability in the community of
31 services and facilities for osteopathic physicians and surgeons and
32 allopathic physicians and their patients. The department shall
33 consider the application in terms of its impact on existing and
34 proposed institutional training programs for doctors of ((osteopathy))
35 osteopathic medicine and surgery and medicine at the student,
36 internship, and residency training levels;

37 (e) In the case of a construction project, the costs and methods of
38 the proposed construction, including the cost and methods of energy

1 provision, and the probable impact of the construction project reviewed
2 (i) on the cost of providing health services by the person proposing
3 such construction project and (ii) on the cost and charges to the
4 public of providing health services by other persons;

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

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

10 (h) In the case of health services proposed to be provided, the
11 efficiency and appropriateness of the use of existing services and
12 facilities similar to those proposed;

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

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

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

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

21 (ii) The availability of other services in the community to be
22 served. Data used to determine the availability of other services will
23 include but not be limited to data provided by the department of social
24 and health services.

25 (3) A certificate of need application of a health maintenance
26 organization or a health care facility which is controlled, directly or
27 indirectly, by a health maintenance organization, shall be approved by
28 the department if the department finds:

29 (a) Approval of such application is required to meet the needs of
30 the members of the health maintenance organization and of the new
31 members which such organization can reasonably be expected to enroll;
32 and

33 (b) The health maintenance organization is unable to provide,
34 through services or facilities which can reasonably be expected to be
35 available to the organization, its health services in a reasonable and
36 cost-effective manner which is consistent with the basic method of
37 operation of the organization and which makes such services available
38 on a long-term basis through physicians and other health professionals
39 associated with it.

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

6 (4) Until the final expiration of the state health plan as provided
7 under RCW 70.38.919, the decision of the department on a certificate of
8 need application shall be consistent with the state health plan in
9 effect, except in emergency circumstances which pose a threat to the
10 public health. The department in making its final decision may issue
11 a conditional certificate of need if it finds that the project is
12 justified only under specific circumstances. The conditions shall
13 directly relate to the project being reviewed. The conditions may be
14 released if it can be substantiated that the conditions are no longer
15 valid and the release of such conditions would be consistent with the
16 purposes of this chapter.

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

21 (6) The department shall specify information to be required for
22 certificate of need applications. Within fifteen days of receipt of
23 the application, the department shall request additional information
24 considered necessary to the application or start the review process.
25 Applicants may decline to submit requested information through written
26 notice to the department, in which case review starts on the date of
27 receipt of the notice. Applications may be denied or limited because
28 of failure to submit required and necessary information.

29 (7) Concurrent review is for the purpose of comparative analysis
30 and evaluation of competing or similar projects in order to determine
31 which of the projects may best meet identified needs. Categories of
32 projects subject to concurrent review include at least new health care
33 facilities, new services, and expansion of existing health care
34 facilities. The department shall specify time periods for the
35 submission of applications for certificates of need subject to
36 concurrent review, which shall not exceed ninety days. Review of
37 concurrent applications shall start fifteen days after the conclusion
38 of the time period for submission of applications subject to concurrent
39 review. Concurrent review periods shall be limited to one hundred

1 fifty days, except as provided for in rules adopted by the department
2 authorizing and limiting amendment during the course of the review, or
3 for an unresolved pivotal issue declared by the department.

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

10 (9) The department or its designee, shall conduct a public hearing
11 on a certificate of need application if requested unless the review is
12 expedited or subject to emergency review. The department by rule shall
13 specify the period of time within which a public hearing must be
14 requested and requirements related to public notice of the hearing,
15 procedures, recordkeeping and related matters.

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

20 (b) Any health care facility or health maintenance organization
21 that: (i) Provides services similar to the services provided by the
22 applicant and under review pursuant to this subsection; (ii) is located
23 within the applicant's health service area; and (iii) testified or
24 submitted evidence at a public hearing held pursuant to subsection (9)
25 of this section, shall be provided an opportunity to present oral or
26 written testimony and argument in a proceeding under this subsection:
27 PROVIDED, That the health care facility or health maintenance
28 organization had, in writing, requested to be informed of the
29 department's decisions.

30 (c) If the department desires to settle with the applicant prior to
31 the conclusion of the adjudicative proceeding, the department shall so
32 inform the health care facility or health maintenance organization and
33 afford them an opportunity to comment, in advance, on the proposed
34 settlement.

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

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

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

1 (c) An increase in bed capacity;

2 (d) A significant reduction in the scope of a nursing home project
3 without a commensurate reduction in the cost of the nursing home
4 project, or a cost increase (as represented in bids on a nursing home
5 construction project or final cost estimates acceptable to the person
6 to whom the certificate of need was issued) if the total of such
7 increases exceeds twelve percent or fifty thousand dollars, whichever
8 is greater, over the maximum capital expenditure approved. The review
9 of reductions or cost increases shall be restricted to the continued
10 conformance of the nursing home project with the review criteria
11 pertaining to financial feasibility and cost containment.

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

17 (13)(a) Replacement of existing nursing home beds in the same
18 planning area by an existing licensee who has operated the beds for at
19 least one year shall not require a certificate of need under this
20 chapter. The licensee shall give written notice of its intent to
21 replace the existing nursing home beds to the department and shall
22 provide the department with information as may be required pursuant to
23 rule. Replacement of the beds by a party other than the licensee is
24 subject to certificate of need review under this chapter, except as
25 otherwise permitted by subsection (14) of this section.

26 (b) When an entire nursing home ceases operation, the licensee or
27 any other party who has secured an interest in the beds may reserve his
28 or her interest in the beds for eight years or until a certificate of
29 need to replace them is issued, whichever occurs first. However, the
30 nursing home, licensee, or any other party who has secured an interest
31 in the beds must give notice of its intent to retain the beds to the
32 department of health no later than thirty days after the effective date
33 of the facility's closure. Certificate of need review shall be
34 required for any party who has reserved the nursing home beds except
35 that the need criteria shall be deemed met when the applicant is the
36 licensee who had operated the beds for at least one year, who has
37 operated the beds for at least one year immediately preceding the
38 reservation of the beds, and who is replacing the beds in the same
39 planning area.

1 (14) In the event that a licensee, who has provided the department
2 with notice of his or her intent to replace nursing home beds under
3 subsection (13)(a) of this section, engages in unprofessional conduct
4 or becomes unable to practice with reasonable skill and safety by
5 reason of mental or physical condition, pursuant to chapter 18.130 RCW,
6 or dies, the building owner shall be permitted to complete the nursing
7 home bed replacement project, provided the building owner has secured
8 an interest in the beds.

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

11 For the purposes of this chapter the following words and phrases
12 shall have the following meanings unless the context clearly requires
13 otherwise:

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

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

21 (3) "Approved treatment program" means a discrete program of
22 chemical dependency treatment provided by a treatment program certified
23 by the department of social and health services as meeting standards
24 adopted under this chapter.

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

28 (5) "Chemical dependency program" means expenditures and activities
29 of the department designed and conducted to prevent or treat alcoholism
30 and other drug addiction, including reasonable administration and
31 overhead.

32 (6) "Department" means the department of social and health
33 services.

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

1 (8) "Director" means the person administering the chemical
2 dependency program within the department.

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

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

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

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

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

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

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

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

36 (17) "Likelihood of serious harm" means either: (a) A substantial
37 risk that physical harm will be inflicted by an individual upon his or
38 her own person, as evidenced by threats or attempts to commit suicide
39 or inflict physical harm on one's self; (b) a substantial risk that

1 physical harm will be inflicted by an individual upon another, as
2 evidenced by behavior that has caused the harm or that places another
3 person or persons in reasonable fear of sustaining the harm; or (c) a
4 substantial risk that physical harm will be inflicted by an individual
5 upon the property of others, as evidenced by behavior that has caused
6 substantial loss or damage to the property of others.

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

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

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

13 (21) "Secretary" means the secretary of the department of social
14 and health services.

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

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

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

28 Unless the context requires otherwise, the definitions in this
29 section apply throughout this chapter.

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

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

33 (3) "Practitioner of the healing arts" or "practitioner" means a
34 person licensed by this state to practice (~~(podiatry)~~) podiatric
35 medicine and surgery, optometry, pharmacy, physical therapy,
36 chiropractic, nursing, dentistry, (~~(osteopathy)~~) osteopathic medicine
37 and surgery, or medicine and surgery. The term "practitioner" shall
38 include a nurses aide, a nursing home administrator licensed under

1 chapter 18.52 RCW, and a duly accredited Christian Science
2 practitioner: PROVIDED, HOWEVER, That a nursing home patient who is
3 being furnished Christian Science treatment by a duly accredited
4 Christian Science practitioner shall not be considered, for that reason
5 alone, a neglected patient for the purposes of this chapter.

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

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

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

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

19 (8) "Pharmacist" means any registered pharmacist under chapter
20 18.64 RCW, whether acting in an individual capacity or as an employee
21 or agent of any public or private organization or institution.

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

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

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

33 NEW SECTION. **Sec. 25.** This act shall take effect July 1, 1996.

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