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**SUBSTITUTE HOUSE BILL 2378**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Riccelli, Harris, Macri, and Cody)

AN ACT Relating to physician assistants; amending RCW 18.71A.020, 18.71A.025, 18.71A.030, 18.71A.050, 18.71A.090, 7.68.030, 18.06.140, 18.57.003, 18.79.040, 18.79.060, 18.79.240, 18.79.270, 18.100.050, 18.120.020, 18.130.410, 18.250.010, 28A.210.090, 43.70.220, 43.70.470, 46.19.010, 46.61.506, 46.61.508, 48.42.100, 48.43.094, 48.43.115, 51.04.030, 51.28.100, 69.41.030, 69.45.010, 70.41.210, 70.54.400, 70.128.120, 70.185.090, 70.225.040, 71.32.020, 74.09.010, 74.42.230, and 82.04.050; reenacting and amending RCW 18.71A.010, 18.79.260, 18.89.020, 18.130.040, 18.360.010, 43.70.110, 43.70.442, 69.41.010, 69.50.101, 69.51A.010, 70.180.030, 71.05.020, 71.24.025, 71.34.020, and 74.42.010; adding new sections to chapter 18.71A RCW; creating a new section; repealing RCW 18.57A.010, 18.57A.020, 18.57A.023, 18.57A.025, 18.57A.030, 18.57A.035, 18.57A.040, 18.57A.050, 18.57A.060, 18.57A.070, 18.57A.080, 18.57A.090, 18.57A.100, 18.57A.800, 18.57A.810, 18.71A.035, and 18.71A.040; providing effective dates; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature intends to modernize the practice of physician assistants in order to increase access to care, reduce barriers to employment of physician assistants, and optimize the manner in which physician assistants deliver quality medical care.

**Sec.**  RCW 18.71A.010 and 2019 c 55 s 5 are each reenacted and amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Commission" means the Washington medical commission.

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

(3) "Physician assistant" means a person who is licensed by the commission to practice medicine ((~~to a limited extent only under the supervision of a physician as defined in chapter 18.71 RCW~~)) according to a practice agreement with one or more participating physicians, with at least one of the physicians working in a supervisory capacity, and who is academically and clinically prepared to provide health care services and perform diagnostic, therapeutic, preventative, and health maintenance services.

(4) "Practice medicine" has the meaning defined in RCW 18.71.011 and also includes the practice of osteopathic medicine and surgery as defined in RCW 18.57.001.

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

(6) "Physician" means a physician licensed under chapter 18.57 or 18.71 RCW.

(7) "Practice agreement" means an agreement entered under section 6 of this act.

**Sec.**  RCW 18.71A.020 and 2019 c 55 s 6 are each amended to read as follows:

(1) The commission shall adopt rules fixing the qualifications and the educational and training requirements for licensure as a physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the commission and within one year successfully take and pass an examination approved by the commission, if the examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. An interim permit may be granted by the department of health for one year provided the applicant meets all other requirements. Physician assistants licensed by the board of medical examiners, or the commission as of July 1, 1999, shall continue to be licensed.

(2)(a) The commission shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under ((~~the supervision and control of a~~)) the terms of one or more practice agreements, each signed by one or more supervising physicians licensed in this state((~~, but such supervision and control~~)). A practice agreement may be signed electronically using a method for electronic signatures approved by the commission. Supervision shall not be construed to necessarily require the personal presence of the supervising physician or physicians at the place where services are rendered.

(3) Applicants for licensure shall file an application with the commission on a form prepared by the secretary with the approval of the commission, detailing the education, training, and experience of the physician assistant and such other information as the commission may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of fifty dollars per year shall be charged on each license renewal or issuance of a new license to be collected by the department and deposited into the impaired physician account for physician assistant participation in the impaired physician program. Each applicant shall furnish proof satisfactory to the commission of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the commission and is eligible to take the examination approved by the commission;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing medicine as a physician assistant with reasonable skill and safety. The commission may require an applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical or mental capability, or both, to safely practice as a physician assistant.

(4)(a) The commission may approve, deny, or take other disciplinary action upon the application for license as provided in the Uniform Disciplinary Act, chapter 18.130 RCW.

(b) The license shall be renewed as determined under RCW 43.70.250 and 43.70.280. The commission shall request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, or other relevant data determined by the commission.

((~~(c) The commission may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.~~))

(5) All funds in the impaired physician account shall be paid to the contract entity within sixty days of deposit.

**Sec.**  RCW 18.71A.025 and 1986 c 259 s 106 are each amended to read as follows:

(1) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

(2) The commission shall consult with the board of osteopathic medicine and surgery when investigating allegations of unprofessional conduct against a licensee who has a supervising physician licensed under chapter 18.57 RCW.

**Sec.**  RCW 18.71A.030 and 2016 c 155 s 23 are each amended to read as follows:

(1) A physician assistant may practice medicine in this state ((~~only with the approval of the delegation agreement by the commission and only~~)) to the extent permitted by the ((~~commission. A physician assistant who has received a license but who has not received commission approval of the delegation agreement under RCW 18.71A.040 may not~~)) practice agreement. A physician assistant shall be subject to discipline under chapter 18.130 RCW.

(2) Physician assistants may provide services that they are competent to perform based on their education, training, and experience and that are consistent with their ((~~commission-approved delegation~~)) practice agreement. The supervising physician and the physician assistant shall determine which procedures may be performed and the ((~~degree of~~)) supervision under which the procedure is performed. Physician assistants may practice in any area of medicine or surgery as long as the practice is not beyond the supervising physician's own scope of expertise and clinical practice and the practice agreement.

(3) A physician assistant delivering general anesthesia or intrathecal anesthesia pursuant to a practice agreement with a physician shall show evidence of adequate education and training in the delivery of the type of anesthesia being delivered on his or her practice agreement.

NEW SECTION. **Sec.**  A new section is added to chapter 18.71A RCW to read as follows:

(1) Prior to commencing practice, a physician assistant licensed in Washington state must enter into a practice agreement with a physician or group of physicians, at least one of whom must be working in a supervisory capacity.

(a) Entering into a practice agreement is voluntary for the physician assistant and the supervising physician. A physician may not be compelled to participate in a practice agreement as a condition of employment.

(b) Prior to entering into the practice agreement, the physician, physicians, or their designee must verify the physician assistant's credentials.

(c) The protections of RCW 43.70.075 apply to any physician who reports to the commission acts of retaliation or reprisal for declining to sign a practice agreement.

(d) The practice agreement must be maintained by the physician assistant's employer or at his or her place of work and must be made available to the commission upon request.

(e) The commission shall develop a model practice agreement.

(f) The commission shall establish administrative procedures, administrative requirements, and fees as provided in RCW 43.70.250 and 43.70.280.

(2) A practice agreement must include all of the following:

(a) The duties and responsibilities of the physician assistant, the supervising physician, and alternate physicians. The practice agreement must describe supervision requirements for specified procedures or areas of practice. The practice agreement may only include acts, tasks, or functions that the physician assistant and supervising physician or alternate physicians are qualified to perform by education, training, or experience and that are within the scope of expertise and clinical practice of both the physician assistant and the supervising physician or alternate physicians, unless otherwise authorized by law, rule, or the commission;

(b) A process between the physician assistant and supervising physician or alternate physicians for communication, availability, and decision making when providing medical treatment to a patient or in the event of an acute health care crisis not previously covered by the practice agreement, such as a flu pandemic or other unforeseen emergency. Communications may occur in person, electronically, by telephone, or by an alternate method;

(c) If there is only one physician party to the practice agreement, a protocol for designating an alternate physician for consultation in situations in which the physician is not available;

(d) The signature of the physician assistant and the signature or signatures of the supervising physician. A practice agreement may be signed electronically using a method for electronic signatures approved by the commission; and

(e) A termination provision. A physician assistant or physician may terminate the practice agreement as it applies to a single supervising physician without terminating the agreement with respect to the remaining participating physicians. If the termination results in no supervising physician being designated on the agreement, a new supervising physician must be designated for the agreement to be valid.

(i) Except as provided in (e)(ii) of this subsection, the physician assistant or supervising physician must provide written notice at least thirty days prior to the termination.

(ii) The physician assistant or supervising physician may terminate the practice agreement immediately due to good faith concerns regarding unprofessional conduct or failure to practice medicine while exercising reasonable skill and safety.

(3) A practice agreement may be amended for any reason, such as to add or remove supervising physicians or alternate physicians or to amend the duties and responsibilities of the physician assistant.

(4) Whenever a physician assistant is practicing in a manner inconsistent with the practice agreement, the commission may take disciplinary action under chapter 18.130 RCW.

(5) Whenever a physician is subject to disciplinary action under chapter 18.130 RCW related to the practice of a physician assistant, the case must be referred to the appropriate disciplining authority.

(6) A physician assistant or physician may participate in more than one practice agreement if he or she is reasonably able to fulfill the duties and responsibilities in each agreement.

(7) A physician may supervise no more than ten physician assistants. A physician may petition the commission for a waiver of this limit. The commission shall automatically grant a waiver to any physician who possesses, on the effective date of this section, a valid waiver to supervise more than ten physician assistants. A physician granted a waiver under this subsection may not supervise more physician assistants than the physician is able to adequately supervise.

(8) A physician assistant must file with the commission in a form acceptable to the commission:

(a) Each practice agreement into which the physician assistant enters under this section;

(b) Any amendments to the practice agreement; and

(c) Notice if the practice agreement is terminated.

**Sec.**  RCW 18.71A.050 and 1994 sp.s. c 9 s 323 are each amended to read as follows:

No physician who ((~~supervises~~)) enters into a practice agreement with a licensed physician assistant in accordance with and within the terms of any permission granted by the commission is considered as aiding and abetting an unlicensed person to practice medicine. The supervising physician and physician assistant shall each retain professional and personal responsibility for any act which constitutes the practice of medicine as defined in RCW 18.71.011 or the practice of osteopathic medicine and surgery as defined in RCW 18.57.001 when performed by the physician assistant.

**Sec.**  RCW 18.71A.090 and 2007 c 264 s 3 are each amended to read as follows:

(1) A physician assistant may sign and attest to any certificates, cards, forms, or other required documentation that the physician assistant's supervising physician or physician group may sign, provided that it is within the physician assistant's scope of practice and is consistent with the terms of the physician assistant's practice ((~~arrangement plan~~)) agreement as required by this chapter.

(2) Notwithstanding any federal law, rule, or medical staff bylaw provision to the contrary, a physician is not required to countersign orders written in a patient's clinical record or an official form by a physician assistant with whom the physician has a practice agreement.

NEW SECTION. **Sec.**  A new section is added to chapter 18.71A RCW to read as follows:

(1) The commission shall conduct an education and outreach campaign to make license holders, health carriers, and the public aware of the provisions of this act.

(2) This section expires August 1, 2023.

NEW SECTION. **Sec.**  A new section is added to chapter 18.71A RCW to read as follows:

(1) On or after the effective date of this section, no new licenses may be issued under chapter 18.57A RCW. The commission shall license physician assistants licensed under chapter 18.57A RCW prior to the effective date of this section as physician assistants under this chapter when they renew their licenses.

(2) The board of osteopathic medicine and surgery remains the disciplining authority under chapter 18.130 RCW for conduct occurring while a physician assistant is licensed under chapter 18.57A RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 18.71A RCW to read as follows:

The commission and the board of osteopathic medicine and surgery shall adopt any rules necessary to implement this act.

**Sec.**  RCW 7.68.030 and 2017 c 235 s 2 are each amended to read as follows:

(1) It shall be the duty of the director to establish and administer a program of benefits to innocent victims of criminal acts within the terms and limitations of this chapter. The director may apply for and, subject to appropriation, expend federal funds under Public Law 98-473 and any other federal program providing financial assistance to state crime victim compensation programs. The federal funds shall be deposited in the state general fund and may be expended only for purposes authorized by applicable federal law.

(2) The director shall:

(a) Establish and adopt rules governing the administration of this chapter in accordance with chapter 34.05 RCW;

(b) Regulate the proof of accident and extent thereof, the proof of death, and the proof of relationship and the extent of dependency;

(c) Supervise the medical, surgical, and hospital treatment to the intent that it may be in all cases efficient and up to the recognized standard of modern surgery;

(d) Issue proper receipts for moneys received and certificates for benefits accrued or accruing;

(e) Designate a medical director who is licensed under chapter 18.57 or 18.71 RCW;

(f) Supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of ((~~chapters 18.57A and~~)) chapter 18.71A RCW, acting under a supervising physician, including chiropractic care, and including care provided by licensed advanced registered nurse practitioners, to victims at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, electronic communications, rules, regulations, and practices for the furnishing of such care and treatment. The medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule‑making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule. The department may recommend to a victim particular health care services and providers where specialized treatment is indicated or where cost-effective payment levels or rates are obtained by the department, and the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured victims;

(g) In consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, and physician assistants as defined in ((~~chapters 18.57A and~~)) chapter 18.71A RCW, acting under a supervising physician or other agency or person rendering services to victims. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to victims, whether aliens or other victims, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule constitute a "rule" as used in RCW 34.05.010(16). Payments for providers' services under the fee schedule established pursuant to this subsection (2) may not be less than payments provided for comparable services under the workers' compensation program under Title 51 RCW, provided:

(i) If the department, using caseload estimates, projects a deficit in funding for the program by July 15th for the following fiscal year, the director shall notify the governor and the appropriate committees of the legislature and request funding sufficient to continue payments to not less than payments provided for comparable services under the workers' compensation program. If sufficient funding is not provided to continue payments to not less than payments provided for comparable services under the workers' compensation program, the director shall reduce the payments under the fee schedule for the following fiscal year based on caseload estimates and available funding, except payments may not be reduced to less than seventy percent of payments for comparable services under the workers' compensation program;

(ii) If an unforeseeable catastrophic event results in insufficient funding to continue payments to not less than payments provided for comparable services under the workers' compensation program, the director shall reduce the payments under the fee schedule to not less than seventy percent of payments provided for comparable services under the workers' compensation program, provided that the reduction may not be more than necessary to fund benefits under the program; and

(iii) Once sufficient funding is provided or otherwise available, the director shall increase the payments under the fee schedule to not less than payments provided for comparable services under the workers' compensation program;

(h) Make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured victims, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

(3) The director and his or her authorized assistants:

(a) Have power to issue subpoenas to enforce the attendance and testimony of witnesses and the production and examination of books, papers, photographs, tapes, and records before the department in connection with any claim made to the department or any billing submitted to the department. The superior court has the power to enforce any such subpoena by proper proceedings;

(b)(i) May apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must (A) state that an order is sought pursuant to this subsection; (B) adequately specify the records, documents, or testimony; and (C) declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(ii) Where the application under this subsection (3)(b) is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(iii) The director and his or her authorized assistants may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(4) In all hearings, actions, or proceedings before the department, any physician or licensed advanced registered nurse practitioner having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of the physician or licensed advanced registered nurse practitioner to the patient.

**Sec.**  RCW 18.06.140 and 2019 c 308 s 9 are each amended to read as follows:

(1) When a person licensed under this chapter sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the practitioner shall immediately request a consultation or recent written diagnosis from a primary health care provider licensed under chapter 18.71, 18.57, ((~~18.57A,~~)) 18.36A, or 18.71A RCW or RCW 18.79.050. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such primary health care provider, acupuncture or Eastern medicine treatments may only be continued after the patient signs a written waiver acknowledging the risks associated with the failure to pursue treatment from a primary health care provider. The waiver must also include: (a) An explanation of an acupuncturist's or acupuncture and Eastern medicine practitioner's scope of practice, including the services and techniques acupuncturists or acupuncture and Eastern medicine practitioners are authorized to provide and (b) a statement that the services and techniques that an acupuncturist or acupuncture and Eastern medicine practitioner is authorized to provide will not resolve the patient's underlying potentially serious disorder. The requirements of the waiver shall be established by the secretary in rule.

(2) In an emergency, a person licensed under this chapter shall: (a) Initiate the emergency medical system by calling 911; (b) request an ambulance; and (c) provide patient support until emergency response arrives.

(3) A person violating this section is guilty of a misdemeanor.

**Sec.**  RCW 18.57.003 and 2017 c 101 s 1 are each amended to read as follows:

There is hereby created an agency of the state of Washington, consisting of eleven individuals appointed by the governor to be known as the Washington state board of osteopathic medicine and surgery.

On expiration of the term of any member, the governor shall appoint for a period of five years a qualified individual to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified. Initial appointments shall be made and vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor.

Each member of the board shall be a citizen of the United States and must be an actual resident of this state. Two members must be consumers who have neither a financial nor a fiduciary relationship to a health care delivery system, ((~~one member must have been in active practice as a licensed osteopathic physician assistant in this state for at least five years immediately preceding appointment,~~)) and every other member must have been in active practice as a licensed osteopathic physician and surgeon in this state for at least five years immediately preceding appointment.

The board shall elect a chairperson, a secretary, and a vice chairperson from its members. Meetings of the board shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

An affirmative vote of a simple majority of the members present at a meeting or hearing shall be required for the board to take any official action. The board may not take any action without a quorum of the board members present. A simple majority of the board members currently serving constitutes a quorum of the board.

Each member of the board shall be compensated in accordance with RCW 43.03.265 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. The board is a class five group for purposes of chapter 43.03 RCW.

Any member of the board may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-thirds of the physicians licensed under this chapter and in active practice in this state.

**Sec.**  RCW 18.79.040 and 2012 c 13 s 1 are each amended to read as follows:

(1) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based on the principles of the biological, physiological, behavioral, and sociological sciences in either:

(a) The observation, assessment, diagnosis, care or counsel, and health teaching of individuals with illnesses, injuries, or disabilities, or in the maintenance of health or prevention of illness of others;

(b) The performance of such additional acts requiring education and training and that are recognized by the medical and nursing professions as proper and recognized by the commission to be performed by registered nurses licensed under this chapter and that are authorized by the commission through its rules;

(c) The administration, supervision, delegation, and evaluation of nursing practice. However, nothing in this subsection affects the authority of a hospital, hospital district, in-home service agency, community-based care setting, medical clinic, or office, concerning its administration and supervision;

(d) The teaching of nursing;

(e) The executing of medical regimen as prescribed by a licensed physician and surgeon, dentist, osteopathic physician and surgeon, podiatric physician and surgeon, physician assistant, ((~~osteopathic physician assistant,~~)) or advanced registered nurse practitioner, or as directed by a licensed midwife within his or her scope of practice.

(2) Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

(3) This section does not prohibit (a) the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be a registered nurse, (b) the practice of licensed practical nursing by a licensed practical nurse, or (c) the practice of a nursing assistant, providing delegated nursing tasks under chapter 18.88A RCW.

**Sec.**  RCW 18.79.060 and 2012 c 13 s 2 are each amended to read as follows:

"Licensed practical nursing practice" means the performance of services requiring the knowledge, skill, and judgment necessary for carrying out selected aspects of the designated nursing regimen under the direction and supervision of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, physician assistant, ((~~osteopathic physician assistant,~~)) podiatric physician and surgeon, advanced registered nurse practitioner, registered nurse, or midwife.

Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

This section does not prohibit the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be a licensed practical nurse.

**Sec.**  RCW 18.79.240 and 2019 c 270 s 4 are each amended to read as follows:

(1) In the context of the definition of registered nursing practice and advanced registered nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice registered nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing technicians;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a registered nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in the practice of nursing as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or a bureau, division, or agency thereof, while in the discharge of his or her official duties;

(h) Permitting the measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses for the aid thereof;

(i) Permitting the prescribing or directing the use of, or using, an optical device in connection with ocular exercises, visual training, vision training, or orthoptics;

(j) Permitting the prescribing of contact lenses for, or the fitting and adaptation of contact lenses to, the human eye;

(k) Prohibiting the performance of routine visual screening;

(l) Permitting the practice of dentistry or dental hygiene as defined in chapters 18.32 and 18.29 RCW, respectively;

(m) Permitting the practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulation of the spine;

(n) Permitting the practice of podiatric medicine and surgery as defined in chapter 18.22 RCW;

(o) Permitting the performance of major surgery, except such minor surgery as the commission may have specifically authorized by rule adopted in accordance with chapter 34.05 RCW;

(p) Permitting the prescribing of controlled substances as defined in Schedule I of the Uniform Controlled Substances Act, chapter 69.50 RCW;

(q) Prohibiting the determination and pronouncement of death;

(r) Prohibiting advanced registered nurse practitioners, approved by the commission as certified registered nurse anesthetists from selecting, ordering, or administering controlled substances as defined in Schedules II through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, consistent with their commission-recognized scope of practice; subject to facility-specific protocols, and subject to a request for certified registered nurse anesthetist anesthesia services issued by a physician licensed under chapter 18.71 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, a dentist licensed under chapter 18.32 RCW, or a podiatric physician and surgeon licensed under chapter 18.22 RCW; the authority to select, order, or administer Schedule II through IV controlled substances being limited to those drugs that are to be directly administered to patients who require anesthesia for diagnostic, operative, obstetrical, or therapeutic procedures in a hospital, clinic, ambulatory surgical facility, or the office of a practitioner licensed under chapter 18.71, 18.22, 18.36, 18.36A, 18.57, ((~~18.57A,~~)) or 18.32 RCW; "select" meaning the decision-making process of choosing a drug, dosage, route, and time of administration; and "order" meaning the process of directing licensed individuals pursuant to their statutory authority to directly administer a drug or to dispense, deliver, or distribute a drug for the purpose of direct administration to a patient, under instructions of the certified registered nurse anesthetist. "Protocol" means a statement regarding practice and documentation concerning such items as categories of patients, categories of medications, or categories of procedures rather than detailed case-specific formulas for the practice of nurse anesthesia;

(s) Prohibiting advanced registered nurse practitioners from ordering or prescribing controlled substances as defined in Schedules II through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, if and to the extent that doing so is permitted by their scope of practice;

(t) Prohibiting the practice of registered nursing or advanced registered nursing by a student enrolled in an approved school if:

(i) The student performs services without compensation or expectation of compensation as part of a volunteer activity;

(ii) The student is under the direct supervision of a registered nurse or advanced registered nurse practitioner licensed under this chapter, a pharmacist licensed under chapter 18.64 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, or a physician licensed under chapter 18.71 RCW;

(iii) The services the student performs are within the scope of practice of: (A) The nursing profession for which the student is receiving training; and (B) the person supervising the student;

(iv) The school in which the student is enrolled verifies the student has demonstrated competency through his or her education and training to perform the services; and

(v) The student provides proof of current malpractice insurance to the volunteer activity organizer prior to performing any services.

(2) In the context of the definition of licensed practical nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice practical nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of practical nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing assistants;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting or preventing the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a licensed practical nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in licensed practical nurse practice as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof, while in the discharge of his or her official duties.

**Sec.**  RCW 18.79.260 and 2012 c 164 s 407, 2012 c 13 s 3, and 2012 c 10 s 37 are each reenacted and amended to read as follows:

(1) A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, to individuals with illnesses, injuries, or disabilities.

(2) A registered nurse may, at or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, naturopathic physician, optometrist, podiatric physician and surgeon, physician assistant, ((~~osteopathic physician assistant,~~)) advanced registered nurse practitioner, or midwife acting within the scope of his or her license, administer medications, treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required. Such direction must be for acts which are within the scope of registered nursing practice.

(3) A registered nurse may delegate tasks of nursing care to other individuals where the registered nurse determines that it is in the best interest of the patient.

(a) The delegating nurse shall:

(i) Determine the competency of the individual to perform the tasks;

(ii) Evaluate the appropriateness of the delegation;

(iii) Supervise the actions of the person performing the delegated task; and

(iv) Delegate only those tasks that are within the registered nurse's scope of practice.

(b) A registered nurse, working for a home health or hospice agency regulated under chapter 70.127 RCW, may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care.

(c) Except as authorized in (b) or (e) of this subsection, a registered nurse may not delegate the administration of medications. Except as authorized in (e) of this subsection, a registered nurse may not delegate acts requiring substantial skill, and may not delegate piercing or severing of tissues. Acts that require nursing judgment shall not be delegated.

(d) No person may coerce a nurse into compromising patient safety by requiring the nurse to delegate if the nurse determines that it is inappropriate to do so. Nurses shall not be subject to any employer reprisal or disciplinary action by the nursing care quality assurance commission for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise patient safety.

(e) For delegation in community-based care settings or in-home care settings, a registered nurse may delegate nursing care tasks only to registered or certified nursing assistants or home care aides certified under chapter 18.88B RCW. Simple care tasks such as blood pressure monitoring, personal care service, diabetic insulin device set up, verbal verification of insulin dosage for sight-impaired individuals, or other tasks as defined by the nursing care quality assurance commission are exempted from this requirement.

(i) "Community-based care settings" includes: Community residential programs for people with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(ii) "In-home care settings" include an individual's place of temporary or permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings as defined in (e)(i) of this subsection.

(iii) Delegation of nursing care tasks in community-based care settings and in-home care settings is only allowed for individuals who have a stable and predictable condition. "Stable and predictable condition" means a situation in which the individual's clinical and behavioral status is known and does not require the frequent presence and evaluation of a registered nurse.

(iv) The determination of the appropriateness of delegation of a nursing task is at the discretion of the registered nurse. Other than delegation of the administration of insulin by injection for the purpose of caring for individuals with diabetes, the administration of medications by injection, sterile procedures, and central line maintenance may never be delegated.

(v) When delegating insulin injections under this section, the registered nurse delegator must instruct the individual regarding proper injection procedures and the use of insulin, demonstrate proper injection procedures, and must supervise and evaluate the individual performing the delegated task weekly during the first four weeks of delegation of insulin injections. If the registered nurse delegator determines that the individual is competent to perform the injection properly and safely, supervision and evaluation shall occur at least every ninety days thereafter.

(vi)(A) The registered nurse shall verify that the nursing assistant or home care aide, as the case may be, has completed the required core nurse delegation training required in chapter 18.88A or 18.88B RCW prior to authorizing delegation.

(B) Before commencing any specific nursing tasks authorized to be delegated in this section, a home care aide must be certified pursuant to chapter 18.88B RCW and must comply with RCW 18.88B.070.

(vii) The nurse is accountable for his or her own individual actions in the delegation process. Nurses acting within the protocols of their delegation authority are immune from liability for any action performed in the course of their delegation duties.

(viii) Nursing task delegation protocols are not intended to regulate the settings in which delegation may occur, but are intended to ensure that nursing care services have a consistent standard of practice upon which the public and the profession may rely, and to safeguard the authority of the nurse to make independent professional decisions regarding the delegation of a task.

(f) The nursing care quality assurance commission may adopt rules to implement this section.

(4) Only a person licensed as a registered nurse may instruct nurses in technical subjects pertaining to nursing.

(5) Only a person licensed as a registered nurse may hold herself or himself out to the public or designate herself or himself as a registered nurse.

**Sec.**  RCW 18.79.270 and 2012 c 13 s 4 are each amended to read as follows:

A licensed practical nurse under his or her license may perform nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof may, under the direction of a licensed physician and surgeon, osteopathic physician and surgeon, dentist, naturopathic physician, podiatric physician and surgeon, physician assistant, ((~~osteopathic physician assistant,~~)) advanced registered nurse practitioner, or midwife acting under the scope of his or her license, or at the direction and under the supervision of a registered nurse, administer drugs, medications, treatments, tests, injections, and inoculations, whether or not the piercing of tissues is involved and whether or not a degree of independent judgment and skill is required, when selected to do so by one of the licensed practitioners designated in this section, or by a registered nurse who need not be physically present; if the order given is reduced to writing within a reasonable time and made a part of the patient's record. Such direction must be for acts within the scope of licensed practical nurse practice.

**Sec.**  RCW 18.89.020 and 2011 c 235 s 1 are each reenacted and amended to read as follows:

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

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

(2) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW; or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, or a physician assistant licensed under chapter 18.71A RCW((~~, or an osteopathic physician assistant licensed under chapter 18.57A RCW~~)).

(3) "Respiratory care practitioner" means an individual licensed under this chapter.

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

**Sec.**  RCW 18.100.050 and 2001 c 251 s 29 are each amended to read as follows:

(1) An individual or group of individuals duly licensed or otherwise legally authorized to render the same professional services within this state may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of Title 23B RCW for the purpose of rendering professional service. One or more of the legally authorized individuals shall be the incorporators of the professional corporation.

(2) Notwithstanding any other provision of this chapter, registered architects and registered engineers may own stock in and render their individual professional services through one professional service corporation.

(3) Licensed health care professionals, providing services to enrolled participants either directly or through arrangements with a health maintenance organization registered under chapter 48.46 RCW or federally qualified health maintenance organization, may own stock in and render their individual professional services through one professional service corporation.

(4) Professionals may organize a nonprofit nonstock corporation under this chapter and chapter 24.03 RCW to provide professional services, and the provisions of this chapter relating to stock and referring to Title 23B RCW shall not apply to any such corporation.

(5)(a) Notwithstanding any other provision of this chapter, health care professionals who are licensed or certified pursuant to chapters 18.06, 18.225, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, ((~~18.57A,~~)) 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may own stock in and render their individual professional services through one professional service corporation and are to be considered, for the purpose of forming a professional service corporation, as rendering the "same specific professional services" or "same professional services" or similar terms.

(b) Notwithstanding any other provision of this chapter, health care professionals who are regulated under chapters 18.59 and 18.74 RCW may own stock in and render their individual professional services through one professional service corporation formed for the sole purpose of providing professional services within their respective scope of practice.

(c) Formation of a professional service corporation under this subsection does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

**Sec.**  RCW 18.120.020 and 2019 c 308 s 17 are each amended to read as follows:

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

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

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

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

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathic medicine and surgery under ((~~chapters~~)) chapter 18.57 ((~~and 18.57A~~)) RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage therapists under chapter 18.108 RCW; acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; reflexologists certified under chapter 18.108 RCW; medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and licensed behavior analysts, licensed assistant behavior analysts, and certified behavior technicians under chapter 18.380 RCW.

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 18.130.040 and 2019 c 444 s 11, 2019 c 308 s 18, and 2019 c 55 s 7 are each reenacted and amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under ((~~chapters~~)) chapter 18.57 ((~~and 18.57A~~)) RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

**Sec.**  RCW 18.130.410 and 2017 c 336 s 9 are each amended to read as follows:

It is not professional misconduct for a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; ((~~osteopathic physician assistant licensed under chapter 18.57A RCW;~~)) advanced emergency medical technician or paramedic certified under chapter 18.71 RCW; or medical assistant-certified, medical assistant-phlebotomist, or forensic phlebotomist certified under chapter 18.360 RCW, or person holding another credential under Title 18 RCW whose scope of practice includes performing venous blood draws, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider, to collect a blood sample without a person's consent when the physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; ((~~osteopathic physician assistant licensed under chapter 18.57A RCW;~~)) advanced emergency medical technician or paramedic certified under chapter 18.71 RCW; or medical assistant-certified, medical assistant-phlebotomist, or forensic phlebotomist certified under chapter 18.360 RCW, or person holding another credential under Title 18 RCW whose scope of practice includes performing venous blood draws, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood was directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant or exigent circumstances: PROVIDED, That nothing in this section shall relieve a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; ((~~osteopathic physician assistant licensed under chapter 18.57A RCW;~~)) advanced emergency medical technician or paramedic certified under chapter 18.71 RCW; or medical assistant-certified, medical assistant-phlebotomist, or forensic phlebotomist certified under chapter 18.360 RCW, or person holding another credential under Title 18 RCW whose scope of practice includes performing venous blood draws, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood from professional discipline arising from the use of improper procedures or from failing to exercise the required standard of care.

**Sec.**  RCW 18.250.010 and 2019 c 308 s 19 are each amended to read as follows:

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

(1) "Athlete" means a person who participates in exercise, recreation, sport, or games requiring physical strength, range‑of‑motion, flexibility, body awareness and control, speed, stamina, or agility, and the exercise, recreation, sports, or games are of a type conducted in association with an educational institution or professional, amateur, or recreational sports club or organization.

(2) "Athletic injury" means an injury or condition sustained by an athlete that affects the person's participation or performance in exercise, recreation, sport, or games and the injury or condition is within the professional preparation and education of an athletic trainer.

(3) "Athletic trainer" means a person who is licensed under this chapter. An athletic trainer can practice athletic training through the consultation, referral, or guidelines of a licensed health care provider working within their scope of practice.

(4)(a) "Athletic training" means the application of the following principles and methods as provided by a licensed athletic trainer:

(i) Risk management and prevention of athletic injuries through preactivity screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks;

(ii) Recognition, evaluation, and assessment of athletic injuries by obtaining a history of the athletic injury, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury;

(iii) Immediate care of athletic injuries, including emergency medical situations through the application of first‑aid and emergency procedures and techniques for nonlife-threatening or life‑threatening athletic injuries;

(iv) Treatment, rehabilitation, and reconditioning of athletic injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, in accordance with guidelines established with a licensed health care provider as provided in RCW 18.250.070;

(v) Treatment, rehabilitation, and reconditioning of work-related injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, under the direct supervision of and in accordance with a plan of care for an individual worker established by a provider authorized to provide physical medicine and rehabilitation services for injured workers; and

(vi) Referral of an athlete to an appropriately licensed health care provider if the athletic injury requires further definitive care or the injury or condition is outside an athletic trainer's scope of practice, in accordance with RCW 18.250.070.

(b) "Athletic training" does not include:

(i) The use of spinal adjustment or manipulative mobilization of the spine and its immediate articulations;

(ii) Orthotic or prosthetic services with the exception of evaluation, measurement, fitting, and adjustment of temporary, prefabricated or direct‑formed orthosis as defined in chapter 18.200 RCW;

(iii) The practice of occupational therapy as defined in chapter 18.59 RCW;

(iv) The practice of acupuncture and Eastern medicine as defined in chapter 18.06 RCW;

(v) Any medical diagnosis; and

(vi) Prescribing legend drugs or controlled substances, or surgery.

(5) "Committee" means the athletic training advisory committee.

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

(7) "Licensed health care provider" means a physician, physician assistant, osteopathic physician, ((~~osteopathic physician assistant,~~)) advanced registered nurse practitioner, naturopath, physical therapist, chiropractor, dentist, massage therapist, acupuncturist, occupational therapist, or podiatric physician and surgeon.

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

**Sec.**  RCW 18.360.010 and 2017 c 336 s 14 are each reenacted and amended to read as follows:

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

(1) "Administer" means the retrieval of medication, and its application to a patient, as authorized in RCW 18.360.050.

(2) "Delegation" means direct authorization granted by a licensed health care practitioner to a medical assistant to perform the functions authorized in this chapter which fall within the scope of practice of the health care provider and the training and experience of the medical assistant.

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

(4) "Forensic phlebotomist" means a police officer, law enforcement officer, or employee of a correctional facility or detention facility, who is certified under this chapter and meets any additional training and proficiency standards of his or her employer to collect a venous blood sample for forensic testing pursuant to a search warrant, a waiver of the warrant requirement, or exigent circumstances.

(5) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician and surgeon licensed under chapter 18.57 RCW; or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A RCW, ((~~an osteopathic physician assistant licensed under chapter 18.57A RCW,~~)) or an optometrist licensed under chapter 18.53 RCW.

(6) "Medical assistant-certified" means a person certified under RCW 18.360.040 who assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(7) "Medical assistant-hemodialysis technician" means a person certified under RCW 18.360.040 who performs hemodialysis and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(8) "Medical assistant-phlebotomist" means a person certified under RCW 18.360.040 who performs capillary, venous, and arterial invasive procedures for blood withdrawal and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(9) "Medical assistant-registered" means a person registered under RCW 18.360.040 who, pursuant to an endorsement by a health care practitioner, clinic, or group practice, assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(10) "Secretary" means the secretary of the department of health.

(11) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility. The health care practitioner does not need to be present during procedures to withdraw blood, but must be immediately available.

**Sec.**  RCW 28A.210.090 and 2019 c 362 s 2 are each amended to read as follows:

(1) Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the certifications required by this section, on a form prescribed by the department of health:

(a) A written certification signed by a health care practitioner that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(b) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; or

(c) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child. A philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

(2)(a) The form presented on or after July 22, 2011, must include a statement to be signed by a health care practitioner stating that he or she provided the signator with information about the benefits and risks of immunization to the child. The form may be signed by a health care practitioner at any time prior to the enrollment of the child in a school or licensed day care. Photocopies of the signed form or a letter from the health care practitioner referencing the child's name shall be accepted in lieu of the original form.

(b) A health care practitioner who, in good faith, signs the statement provided for in (a) of this subsection is immune from civil liability for providing the signature.

(c) Any parent or legal guardian of the child or any adult in loco parentis to the child who exempts the child due to religious beliefs pursuant to subsection (1)(b) of this section is not required to have the form provided for in (a) of this subsection signed by a health care practitioner if the parent or legal guardian demonstrates membership in a religious body or a church in which the religious beliefs or teachings of the church preclude a health care practitioner from providing medical treatment to the child.

(3) For purposes of this section, "health care practitioner" means a physician licensed under chapter 18.71 or 18.57 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A ((~~or 18.57A~~)) RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

**Sec.**  RCW 43.70.110 and 2019 c 308 s 21 and 2019 c 140 s 1 are each reenacted and amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, ((~~osteopathic physicians' assistants licensed under chapter 18.57A RCW,~~)) naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, advanced social workers licensed under chapter 18.225 RCW, independent clinical social workers and independent clinical social worker associates licensed under chapter 18.225 RCW, midwives licensed under chapter 18.50 RCW, marriage and family therapists and marriage and family therapist associates licensed under chapter 18.225 RCW, occupational therapists and occupational therapy assistants licensed under chapter 18.59 RCW, dietitians and nutritionists certified under chapter 18.138 RCW, speech-language pathologists licensed under chapter 18.35 RCW, acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW, and veterinarians and veterinary technicians licensed under chapter 18.92 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

**Sec.**  RCW 43.70.220 and 1994 sp.s. c 9 s 727 are each amended to read as follows:

The powers and duties of the department of licensing and the director of licensing under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.32, 18.34, 18.35, 18.36A, 18.50, 18.52, 18.52C, 18.53, 18.54, 18.55, 18.57, ((~~18.57A,~~)) 18.59, 18.71, 18.71A, 18.74, 18.83, 18.84, 18.79, 18.89, 18.92, 18.108, ((~~18.135,~~)) and 18.138 RCW. More specifically, the health professions regulatory programs and services presently administered by the department of licensing are hereby transferred to the department of health.

**Sec.**  RCW 43.70.442 and 2019 c 444 s 13 and 2019 c 358 s 5 are each reenacted and amended to read as follows:

(1)(a) Each of the following professionals certified or licensed under Title 18 RCW shall, at least once every six years, complete training in suicide assessment, treatment, and management that is approved, in rule, by the relevant disciplining authority:

(i) An adviser or counselor certified under chapter 18.19 RCW;

(ii) A substance use disorder professional licensed under chapter 18.205 RCW;

(iii) A marriage and family therapist licensed under chapter 18.225 RCW;

(iv) A mental health counselor licensed under chapter 18.225 RCW;

(v) An occupational therapy practitioner licensed under chapter 18.59 RCW;

(vi) A psychologist licensed under chapter 18.83 RCW;

(vii) An advanced social worker or independent clinical social worker licensed under chapter 18.225 RCW; and

(viii) A social worker associate—advanced or social worker associate—independent clinical licensed under chapter 18.225 RCW.

(b) The requirements in (a) of this subsection apply to a person holding a retired active license for one of the professions in (a) of this subsection.

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (10)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (1)(d) affects the validity of training completed prior to July 1, 2017.

(2)(a) Except as provided in (b) of this subsection, a professional listed in subsection (1)(a) of this section must complete the first training required by this section by the end of the first full continuing education reporting period after January 1, 2014, or during the first full continuing education reporting period after initial licensure or certification, whichever occurs later.

(b) A professional listed in subsection (1)(a) of this section applying for initial licensure may delay completion of the first training required by this section for six years after initial licensure if he or she can demonstrate successful completion of the training required in subsection (1) of this section no more than six years prior to the application for initial licensure.

(3) The hours spent completing training in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education or continuing competency requirements for each profession.

(4)(a) A disciplining authority may, by rule, specify minimum training and experience that is sufficient to exempt an individual professional from the training requirements in subsections (1) and (5) of this section. Nothing in this subsection (4)(a) allows a disciplining authority to provide blanket exemptions to broad categories or specialties within a profession.

(b) A disciplining authority may exempt a professional from the training requirements of subsections (1) and (5) of this section if the professional has only brief or limited patient contact.

(5)(a) Each of the following professionals credentialed under Title 18 RCW shall complete a one-time training in suicide assessment, treatment, and management that is approved by the relevant disciplining authority:

(i) A chiropractor licensed under chapter 18.25 RCW;

(ii) A naturopath licensed under chapter 18.36A RCW;

(iii) A licensed practical nurse, registered nurse, or advanced registered nurse practitioner, other than a certified registered nurse anesthetist, licensed under chapter 18.79 RCW;

(iv) An osteopathic physician and surgeon licensed under chapter 18.57 RCW, other than a holder of a postgraduate osteopathic medicine and surgery license issued under RCW 18.57.035;

(v) ((~~An osteopathic physician assistant licensed under chapter 18.57A RCW;~~

~~(vi)~~)) A physical therapist or physical therapist assistant licensed under chapter 18.74 RCW;

((~~(vii)~~)) (vi) A physician licensed under chapter 18.71 RCW, other than a resident holding a limited license issued under RCW 18.71.095(3);

((~~(viii)~~)) (vii) A physician assistant licensed under chapter 18.71A RCW;

((~~(ix)~~)) (viii) A pharmacist licensed under chapter 18.64 RCW;

((~~(x)~~)) (ix) A dentist licensed under chapter 18.32 RCW;

((~~(xi)~~)) (x) A dental hygienist licensed under chapter 18.29 RCW;

((~~(xii)~~)) (xi) An athletic trainer licensed under chapter 18.250 RCW; and

((~~(xiii)~~)) (xii) A person holding a retired active license for one of the professions listed in (a)(i) through ((~~(xii)~~)) (xi) of this subsection.

(b)(i) A professional listed in (a)(i) through ((~~(viii)~~)) (vii) of this subsection or a person holding a retired active license for one of the professions listed in (a)(i) through ((~~(viii)~~)) (vii) of this subsection must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2016, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between June 12, 2014, and January 1, 2016, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(ii) A licensed pharmacist or a person holding a retired active pharmacist license must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2017, or during the first full continuing education reporting period after initial licensure, whichever is later.

(iii) A licensed dentist, a licensed dental hygienist, or a person holding a retired active license as a dentist shall complete the one-time training by the end of the full continuing education reporting period after August 1, 2020, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between July 23, 2017, and August 1, 2020, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b)(iii), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (10)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (5)(d) affects the validity of training completed prior to July 1, 2017.

(6)(a) The secretary and the disciplining authorities shall work collaboratively to develop a model list of training programs in suicide assessment, treatment, and management.

(b) The secretary and the disciplining authorities shall update the list at least once every two years.

(c) By June 30, 2016, the department shall adopt rules establishing minimum standards for the training programs included on the model list. The minimum standards must require that six-hour trainings include content specific to veterans and the assessment of issues related to imminent harm via lethal means or self-injurious behaviors and that three-hour trainings for pharmacists or dentists include content related to the assessment of issues related to imminent harm via lethal means. When adopting the rules required under this subsection (6)(c), the department shall:

(i) Consult with the affected disciplining authorities, public and private institutions of higher education, educators, experts in suicide assessment, treatment, and management, the Washington department of veterans affairs, and affected professional associations; and

(ii) Consider standards related to the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center.

(d) Beginning January 1, 2017:

(i) The model list must include only trainings that meet the minimum standards established in the rules adopted under (c) of this subsection and any three-hour trainings that met the requirements of this section on or before July 24, 2015;

(ii) The model list must include six-hour trainings in suicide assessment, treatment, and management, and three-hour trainings that include only screening and referral elements; and

(iii) A person or entity providing the training required in this section may petition the department for inclusion on the model list. The department shall add the training to the list only if the department determines that the training meets the minimum standards established in the rules adopted under (c) of this subsection.

(7) The department shall provide the health profession training standards created in this section to the professional educator standards board as a model in meeting the requirements of RCW 28A.410.226 and provide technical assistance, as requested, in the review and evaluation of educator training programs. The educator training programs approved by the professional educator standards board may be included in the department's model list.

(8) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under chapter 18.130 RCW.

(9) The secretary and the disciplining authorities affected by this section shall adopt any rules necessary to implement this section.

(10) For purposes of this section:

(a) "Disciplining authority" has the same meaning as in RCW 18.130.020.

(b) "Training in suicide assessment, treatment, and management" means empirically supported training approved by the appropriate disciplining authority that contains the following elements: Suicide assessment, including screening and referral, suicide treatment, and suicide management. However, the disciplining authority may approve training that includes only screening and referral elements if appropriate for the profession in question based on the profession's scope of practice. The board of occupational therapy may also approve training that includes only screening and referral elements if appropriate for occupational therapy practitioners based on practice setting.

(11) A state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six‑hour block or may be spread among shorter training sessions at the employer's discretion.

(12) An employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 71.24 RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

**Sec.**  RCW 43.70.470 and 2005 c 156 s 2 are each amended to read as follows:

The department may establish by rule the conditions of participation in the liability insurance program by retired health care providers at clinics utilizing retired health care providers for the purposes of this section and RCW 43.70.460. These conditions shall include, but not be limited to, the following:

(1) The participating health care provider associated with the clinic shall hold a valid license to practice as a physician under chapter 18.71 or 18.57 RCW, a naturopath under chapter 18.36A RCW, a physician assistant under chapter 18.71A ((~~or 18.57A~~)) RCW, an advanced registered nurse practitioner under chapter 18.79 RCW, a dentist under chapter 18.32 RCW, or other health professionals as may be deemed in short supply by the department. All health care providers must be in conformity with current requirements for licensure, including continuing education requirements;

(2) Health care shall be limited to noninvasive procedures and shall not include obstetrical care. Noninvasive procedures include injections, suturing of minor lacerations, and incisions of boils or superficial abscesses. Primary dental care shall be limited to diagnosis, oral hygiene, restoration, and extractions and shall not include orthodontia, or other specialized care and treatment;

(3) The provision of liability insurance coverage shall not extend to acts outside the scope of rendering health care services pursuant to this section and RCW 43.70.460;

(4) The participating health care provider shall limit the provision of health care services to primarily low-income persons provided that clinics may, but are not required to, provide means tests for eligibility as a condition for obtaining health care services;

(5) The participating health care provider shall not accept compensation for providing health care services from patients served pursuant to this section and RCW 43.70.460, nor from clinics serving these patients. "Compensation" shall mean any remuneration of value to the participating health care provider for services provided by the health care provider, but shall not be construed to include any nominal copayments charged by the clinic, nor reimbursement of related expenses of a participating health care provider authorized by the clinic in advance of being incurred; and

(6) The use of mediation or arbitration for resolving questions of potential liability may be used, however any mediation or arbitration agreement format shall be expressed in terms clear enough for a person with a sixth grade level of education to understand, and on a form no longer than one page in length.

**Sec.**  RCW 46.19.010 and 2017 c 112 s 1 are each amended to read as follows:

(1) A natural person who has a disability that meets one of the following criteria may apply for special parking privileges:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Has such a severe disability that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

(e) Is restricted by lung disease to an extent that forced expiratory respiratory volume, when measured by spirometry, is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American heart association;

(g) Has a disability resulting from an acute sensitivity to automobile emissions that limits or impairs the ability to walk. The personal physician, advanced registered nurse practitioner, or physician assistant of the applicant shall document that the disability is comparable in severity to the others listed in this subsection;

(h) Has limited mobility and has no vision or whose vision with corrective lenses is so limited that the person requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by persons with normal vision;

(i) Has an eye condition of a progressive nature that may lead to blindness; or

(j) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

(2) The disability must be determined by either:

(a) A licensed physician;

(b) An advanced registered nurse practitioner licensed under chapter 18.79 RCW; or

(c) A physician assistant licensed under chapter 18.71A ((~~or 18.57A~~)) RCW.

(3) A health care practitioner listed under subsection (2) of this section who is authorizing a parking permit for purposes of this chapter must provide a signed written authorization: On a prescription pad or paper, as defined in RCW 18.64.500; on office letterhead; or by electronic means, as described by the director in rule.

(4) The application for special parking privileges for persons with disabilities must contain:

(a) The following statement immediately below the physician's, advanced registered nurse practitioner's, or physician assistant's signature: "A parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility or involves acute sensitivity to light (RCW 46.19.010). An applicant or health care practitioner who knowingly provides false information on this application is guilty of a gross misdemeanor. The penalty is up to three hundred sixty-four days in jail and a fine of up to $5,000 or both. In addition, the health care practitioner may be subject to sanctions under chapter 18.130 RCW, the Uniform Disciplinary Act"; and

(b) Other information as required by the department.

(5) A natural person who has a disability described in subsection (1) of this section and is expected to improve within twelve months may be issued a temporary placard for a period not to exceed twelve months. If the disability exists after twelve months, a new temporary placard must be issued upon receipt of a new application with certification from the person's physician as prescribed in subsections (3) and (4) of this section. Special license plates for persons with disabilities may not be issued to a person with a temporary disability.

(6) A natural person who qualifies for special parking privileges under this section must receive an identification card showing the name and date of birth of the person to whom the parking privilege has been issued and the serial number of the placard.

(7) A natural person who qualifies for permanent special parking privileges under this section may receive one of the following:

(a) Up to two parking placards;

(b) One set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed;

(c) One parking placard and one set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed; or

(d) One special parking year tab for persons with disabilities and one parking placard.

(8) Parking placards and identification cards described in this section must be issued free of charge.

(9) The parking placard and identification card must be immediately returned to the department upon the placard holder's death.

**Sec.**  RCW 46.61.506 and 2017 c 336 s 7 are each amended to read as follows:

(1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the person's alcohol concentration is less than 0.08 or the person's THC concentration is less than 5.00, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

(2)(a) The breath analysis of the person's alcohol concentration shall be based upon grams of alcohol per two hundred ten liters of breath.

(b) The blood analysis of the person's THC concentration shall be based upon nanograms per milliliter of whole blood.

(c) The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor or any drug.

(3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4)(a) A breath test performed by any instrument approved by the state toxicologist shall be admissible at trial or in an administrative proceeding if the prosecution or department produces prima facie evidence of the following:

(i) The person who performed the test was authorized to perform such test by the state toxicologist;

(ii) The person being tested did not vomit or have anything to eat, drink, or smoke for at least fifteen minutes prior to administration of the test;

(iii) The person being tested did not have any foreign substances, not to include dental work or piercings, fixed or removable, in his or her mouth at the beginning of the fifteen-minute observation period;

(iv) Prior to the start of the test, the temperature of any liquid simulator solution utilized as an external standard, as measured by a thermometer approved of by the state toxicologist was thirty-four degrees centigrade plus or minus 0.3 degrees centigrade;

(v) The internal standard test resulted in the message "verified";

(vi) The two breath samples agree to within plus or minus ten percent of their mean to be determined by the method approved by the state toxicologist;

(vii) The result of the test of the liquid simulator solution external standard or dry gas external standard result did lie between .072 to .088 inclusive; and

(viii) All blank tests gave results of .000.

(b) For purposes of this section, "prima facie evidence" is evidence of sufficient circumstances that would support a logical and reasonable inference of the facts sought to be proved. In assessing whether there is sufficient evidence of the foundational facts, the court or administrative tribunal is to assume the truth of the prosecution's or department's evidence and all reasonable inferences from it in a light most favorable to the prosecution or department.

(c) Nothing in this section shall be deemed to prevent the subject of the test from challenging the reliability or accuracy of the test, the reliability or functioning of the instrument, or any maintenance procedures. Such challenges, however, shall not preclude the admissibility of the test once the prosecution or department has made a prima facie showing of the requirements contained in (a) of this subsection. Instead, such challenges may be considered by the trier of fact in determining what weight to give to the test result.

(5) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcohol or drug content may be performed only by a physician licensed under chapter 18.71 RCW; an osteopathic physician licensed under chapter 18.57 RCW; a registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; a physician assistant licensed under chapter 18.71A RCW; ((~~an osteopathic physician assistant licensed under chapter 18.57A RCW;~~)) an advanced emergency medical technician or paramedic certified under chapter 18.71 RCW; or a medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, a person holding another credential under Title 18 RCW whose scope of practice includes performing venous blood draws, or a forensic phlebotomist certified under chapter 18.360 RCW. When the blood test is performed outside the state of Washington, the withdrawal of blood for the purpose of determining its alcohol or drug content may be performed by any person who is authorized by the out-of-state jurisdiction to perform venous blood draws. Proof of qualification to draw blood may be established through the department of health's provider credential search. This limitation shall not apply to the taking of breath specimens.

(6) When a venous blood sample is performed by a forensic phlebotomist certified under chapter 18.360 RCW, it must be done under the following conditions:

(a) If taken at the scene, it must be performed in an ambulance or aid service vehicle licensed by the department of health under chapter 18.73 RCW.

(b) The collection of blood samples must not interfere with the provision of essential medical care.

(c) The blood sample must be collected using sterile equipment and the skin area of puncture must be thoroughly cleansed and disinfected.

(d) The person whose blood is collected must be seated, reclined, or lying down when the blood is collected.

(7) The person tested may have a licensed or certified health care provider listed in subsection (5) of this section, or a qualified technician, chemist, or other qualified person of his or her own choosing administer one or more tests in addition to any administered at the direction of a law enforcement officer. The test will be admissible if the person establishes the general acceptability of the testing technique or method. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(8) Upon the request of the person who shall submit to a test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or her or his or her attorney.

**Sec.**  RCW 46.61.508 and 2017 c 336 s 8 are each amended to read as follows:

No physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; ((~~osteopathic physician assistant licensed under chapter 18.57A RCW;~~)) advanced emergency medical technician or paramedic certified under chapter 18.71 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, person holding another credential under Title 18 RCW whose scope of practice includes performing venous blood draws, or forensic phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider, shall incur any civil or criminal liability as a result of the act of withdrawing blood from any person when directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant, a waiver of the search warrant requirement, exigent circumstances, or any other authority of law: PROVIDED, That nothing in this section shall relieve such licensed or certified health care provider, hospital or duly licensed clinical laboratory, or forensic phlebotomist from civil liability arising from the use of improper procedures or failing to exercise the required standard of care.

**Sec.**  RCW 48.42.100 and 2000 c 7 s 1 are each amended to read as follows:

(1) For purposes of this section, health care carriers includes disability insurers regulated under chapter 48.20 or 48.21 RCW, health care services contractors regulated under chapter 48.44 RCW, health maintenance organizations regulated under chapter 48.46 RCW, plans operating under the health care authority under chapter 41.05 RCW, the state health insurance pool operating under chapter 48.41 RCW, and insuring entities regulated under chapter 48.43 RCW.

(2) For purposes of this section and consistent with their lawful scopes of practice, types of health care practitioners that provide women's health care services shall include, but need not be limited by a health care carrier to, the following: Any generally recognized medical specialty of practitioners licensed under chapter 18.57 or 18.71 RCW who provides women's health care services; practitioners licensed under ((~~chapters 18.57A and~~)) chapter 18.71A RCW when providing women's health care services; midwives licensed under chapter 18.50 RCW; and advanced registered nurse practitioner specialists in women's health and midwifery under chapter 18.79 RCW.

(3) For purposes of this section, women's health care services shall include, but need not be limited by a health care carrier to, the following: Maternity care; reproductive health services; gynecological care; general examination; and preventive care as medically appropriate and medically appropriate follow-up visits for the services listed in this subsection.

(4) Health care carriers shall ensure that enrolled female patients have direct access to timely and appropriate covered women's health care services from the type of health care practitioner of their choice in accordance with subsection (5) of this section.

(5)(a) Health care carrier policies, plans, and programs written, amended, or renewed after July 23, 1995, shall provide women patients with direct access to the type of health care practitioner of their choice for appropriate covered women's health care services without the necessity of prior referral from another type of health care practitioner.

(b) Health care carriers may comply with this section by including all the types of health care practitioners listed in this section for women's health care services for women patients.

(c) Nothing in this section shall prevent health care carriers from restricting women patients to seeing only health care practitioners who have signed participating provider agreements with the health care carrier.

**Sec.**  RCW 48.43.094 and 2015 c 237 s 1 are each amended to read as follows:

(1) For health plans issued or renewed on or after January 1, 2017:

(a) Benefits shall not be denied for any health care service performed by a pharmacist licensed under chapter 18.64 RCW if:

(i) The service performed was within the lawful scope of such person's license;

(ii) The plan would have provided benefits if the service had been performed by a physician licensed under chapter 18.71 or 18.57 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician's assistant licensed under chapter 18.71A ((~~or 18.57A~~)) RCW; and

(iii) The pharmacist is included in the plan's network of participating providers; and

(b) The health plan must include an adequate number of pharmacists in its network of participating medical providers.

(2) The participation of pharmacies in the plan network's drug benefit does not satisfy the requirement that plans include pharmacists in their networks of participating medical providers.

(3) For health benefit plans issued or renewed on or after January 1, 2016, but before January 1, 2017, health plans that delegate credentialing agreements to contracted health care facilities must accept credentialing for pharmacists employed or contracted by those facilities. Health plans must reimburse facilities for covered services provided by network pharmacists within the pharmacists' scope of practice per negotiations with the facility.

(4) This section does not supersede the requirements of RCW 48.43.045.

**Sec.**  RCW 48.43.115 and 2003 c 248 s 14 are each amended to read as follows:

(1) The legislature recognizes the role of health care providers as the appropriate authority to determine and establish the delivery of quality health care services to maternity patients and their newly born children. It is the intent of the legislature to recognize patient preference and the clinical sovereignty of providers as they make determinations regarding services provided and the length of time individual patients may need to remain in a health care facility after giving birth. It is not the intent of the legislature to diminish a carrier's ability to utilize managed care strategies but to ensure the clinical judgment of the provider is not undermined by restrictive carrier contracts or utilization review criteria that fail to recognize individual postpartum needs.

(2) Unless otherwise specifically provided, the following definitions apply throughout this section:

(a) "Attending provider" means a provider who: Has clinical hospital privileges consistent with RCW 70.43.020; is included in a provider network of the carrier that is providing coverage; and is a physician licensed under chapter 18.57 or 18.71 RCW, a certified nurse midwife licensed under chapter 18.79 RCW, a midwife licensed under chapter 18.50 RCW, a physician's assistant licensed under chapter ((~~18.57A or~~)) 18.71A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(b) "Health carrier" or "carrier" means disability insurers regulated under chapter 48.20 or 48.21 RCW, health care services contractors regulated under chapter 48.44 RCW, health maintenance organizations regulated under chapter 48.46 RCW, plans operating under the health care authority under chapter 41.05 RCW, the state health insurance pool operating under chapter 48.41 RCW, and insuring entities regulated under this chapter.

(3)(a) Every health carrier that provides coverage for maternity services must permit the attending provider, in consultation with the mother, to make decisions on the length of inpatient stay, rather than making such decisions through contracts or agreements between providers, hospitals, and insurers. These decisions must be based on accepted medical practice.

(b) Covered eligible services may not be denied for inpatient, postdelivery care to a mother and her newly born child after a vaginal delivery or a cesarean section delivery for such care as ordered by the attending provider in consultation with the mother.

(c) At the time of discharge, determination of the type and location of follow-up care must be made by the attending provider in consultation with the mother rather than by contract or agreement between the hospital and the insurer. These decisions must be based on accepted medical practice.

(d) Covered eligible services may not be denied for follow-up care, including in-person care, as ordered by the attending provider in consultation with the mother. Coverage for providers of follow-up services must include, but need not be limited to, attending providers as defined in this section, home health agencies licensed under chapter 70.127 RCW, and registered nurses licensed under chapter 18.79 RCW.

(e) This section does not require attending providers to authorize care they believe to be medically unnecessary.

(f) Coverage for the newly born child must be no less than the coverage of the child's mother for no less than three weeks, even if there are separate hospital admissions.

(4) A carrier that provides coverage for maternity services may not deselect, terminate the services of, require additional documentation from, require additional utilization review of, reduce payments to, or otherwise provide financial disincentives to any attending provider or health care facility solely as a result of the attending provider or health care facility ordering care consistent with this section. This section does not prevent any insurer from reimbursing an attending provider or health care facility on a capitated, case rate, or other financial incentive basis.

(5) Every carrier that provides coverage for maternity services must provide notice to policyholders regarding the coverage required under this section. The notice must be in writing and must be transmitted at the earliest of the next mailing to the policyholder, the yearly summary of benefits sent to the policyholder, or January 1 of the year following June 6, 1996.

(6) This section does not establish a standard of medical care.

(7) This section applies to coverage for maternity services under a contract issued or renewed by a health carrier after June 6, 1996, and applies to plans operating under the health care authority under chapter 41.05 RCW beginning January 1, 1998.

**Sec.**  RCW 51.04.030 and 2011 c 290 s 1 are each amended to read as follows:

(1) The director shall supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of ((~~chapters 18.57A and~~)) chapter 18.71A RCW, acting under a supervising physician, including chiropractic care, and including care provided by licensed advanced registered nurse practitioners, to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: PROVIDED, That the medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule after consultation with the workers' compensation advisory committee established in RCW 51.04.110: PROVIDED FURTHER, That the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost-effective payment levels or rates are obtained by the department: AND PROVIDED FURTHER, That the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured workers.

(2) The director shall, in consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, physicians' assistants as defined in ((~~chapters 18.57A and~~)) chapter 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workers. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to injured workers, whether aliens or other injured workers, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule and its associated billing or payment instructions and policies constitute a "rule" as used in RCW 34.05.010(16).

(3) The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

**Sec.**  RCW 51.28.100 and 2007 c 263 s 1 are each amended to read as follows:

The department shall accept the signature of a physician assistant on any certificate, card, form, or other documentation required by the department that the physician assistant's supervising physician or physicians may sign, provided that it is within the physician assistant's scope of practice, and is consistent with the terms of the physician assistant's practice ((~~arrangement plan~~)) agreement as required by ((~~chapters 18.57A and~~)) chapter 18.71A RCW. Consistent with the terms of this section, the authority of a physician assistant to sign such certificates, cards, forms, or other documentation includes, but is not limited to, the execution of the certificate required in RCW 51.28.020. A physician assistant may not rate a worker's permanent partial disability under RCW 51.32.055.

**Sec.**  RCW 69.41.010 and 2019 c 358 s 6 and 2019 c 308 s 23 are each reenacted and amended to read as follows:

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

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

(a) A practitioner; or

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

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

(3) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

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

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

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

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

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

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

(10) "Drug" means:

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

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

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

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

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

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

(13) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

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

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

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

(17) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, an acupuncturist or acupuncture and Eastern medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, ((~~an osteopathic physician assistant under chapter 18.57A RCW,~~)) a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a licensed athletic trainer to the extent authorized under chapter 18.250 RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

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

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

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

**Sec.**  RCW 69.41.030 and 2019 c 55 s 9 are each amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, ((~~an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery,~~)) a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, ((~~a licensed osteopathic physician assistant,~~)) or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

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

(b) A violation of this section involving possession is a misdemeanor.

**Sec.**  RCW 69.45.010 and 2019 c 55 s 10 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Commission" means the pharmacy quality assurance commission.

(2) "Controlled substance" means a drug, substance, or immediate precursor of such drug or substance, so designated under or pursuant to chapter 69.50 RCW, the uniform controlled substances act.

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

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

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

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

(7) "Drug samples" means any federal food and drug administration approved controlled substance, legend drug, or products requiring prescriptions in this state, which is distributed at no charge to a practitioner by a manufacturer or a manufacturer's representative, exclusive of drugs under clinical investigations approved by the federal food and drug administration.

(8) "Legend drug" means any drug that is required by state law or by regulations of the commission to be dispensed on prescription only or is restricted to use by practitioners only.

(9) "Manufacturer" means a person or other entity engaged in the manufacture or distribution of drugs or devices, but does not include a manufacturer's representative.

(10) "Manufacturer's representative" means an agent or employee of a drug manufacturer who is authorized by the drug manufacturer to possess drug samples for the purpose of distribution in this state to appropriately authorized health care practitioners.

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

(12) "Practitioner" means a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a commissioned medical or dental officer in the United States armed forces or the public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized to prescribe by the nursing care quality assurance commission, ((~~an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery,~~)) or a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission.

(13) "Reasonable cause" means a state of facts found to exist that would warrant a reasonably intelligent and prudent person to believe that a person has violated state or federal drug laws or regulations.

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

**Sec.**  RCW 69.50.101 and 2019 c 394 s 9, 2019 c 158 s 12, and 2019 c 55 s 11 are each reenacted and amended to read as follows:

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

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

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

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

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

(c) "Board" means the Washington state liquor and cannabis board.

(d) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(e) "CBD product" means any product containing or consisting of cannabidiol.

(f) "Commission" means the pharmacy quality assurance commission.

(g) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

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

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

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

(2) The term does not include:

(i) a controlled substance;

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

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

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

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

(j) "Department" means the department of health.

(k) "Designated provider" has the meaning provided in RCW 69.51A.010.

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

(m) "Dispenser" means a practitioner who dispenses.

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

(o) "Distributor" means a person who distributes.

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

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

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

(s) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(t) "Immediate precursor" means a substance:

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

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

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

(u) "Isomer" means an optical isomer, but in subsection (gg)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(v) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(w) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

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

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

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

(y) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

(z) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(aa) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(bb) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(cc) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(dd) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(ee) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

(ff) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (y) of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

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

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

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

(ii) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

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

(kk) "Plant" has the meaning provided in RCW 69.51A.010.

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

(mm) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; ((~~an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040;~~)) an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

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

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

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

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

(pp) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(qq) "Recognition card" has the meaning provided in RCW 69.51A.010.

(rr) "Retail outlet" means a location licensed by the state liquor and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

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

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

(uu) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

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

(ww) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

**Sec.**  RCW 69.51A.010 and 2015 c 70 s 17 are each reenacted and amended to read as follows:

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

(1)(a) Until July 1, 2016, "authorization" means:

(i) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of marijuana; and

(ii) Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035.

(b) Beginning July 1, 2016, "authorization" means a form developed by the department that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper.

(c) An authorization is not a prescription as defined in RCW 69.50.101.

(2) "CBD concentration" means the percent of cannabidiol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product.

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

(4) "Designated provider" means a person who is twenty-one years of age or older and:

(a)(i) Is the parent or guardian of a qualifying patient who is under the age of eighteen and beginning July 1, 2016, holds a recognition card; or

(ii) Has been designated in writing by a qualifying patient to serve as the designated provider for that patient;

(b)(i) Has an authorization from the qualifying patient's health care professional; or

(ii) Beginning July 1, 2016:

(A) Has been entered into the medical marijuana authorization database as being the designated provider to a qualifying patient; and

(B) Has been provided a recognition card;

(c) Is prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient for whom the individual is acting as designated provider;

(d) Provides marijuana to only the qualifying patient that has designated him or her;

(e) Is in compliance with the terms and conditions of this chapter; and

(f) Is the designated provider to only one patient at any one time.

(5) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, ((~~an osteopathic physicians' assistant licensed under chapter 18.57A RCW,~~)) a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(6) "Housing unit" means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.

(7) "Low THC, high CBD" means products determined by the department to have a low THC, high CBD ratio under RCW 69.50.375. Low THC, high CBD products must be inhalable, ingestible, or absorbable.

(8) "Marijuana" has the meaning provided in RCW 69.50.101.

(9) "Marijuana concentrates" has the meaning provided in RCW 69.50.101.

(10) "Marijuana processor" has the meaning provided in RCW 69.50.101.

(11) "Marijuana producer" has the meaning provided in RCW 69.50.101.

(12) "Marijuana retailer" has the meaning provided in RCW 69.50.101.

(13) "Marijuana retailer with a medical marijuana endorsement" means a marijuana retailer that has been issued a medical marijuana endorsement by the state liquor and cannabis board pursuant to RCW 69.50.375.

(14) "Marijuana-infused products" has the meaning provided in RCW 69.50.101.

(15) "Medical marijuana authorization database" means the secure and confidential database established in RCW 69.51A.230.

(16) "Medical use of marijuana" means the manufacture, production, possession, transportation, delivery, ingestion, application, or administration of marijuana for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.

(17) "Plant" means a marijuana plant having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system is considered part of the same single plant.

(18) "Public place" has the meaning provided in RCW 70.160.020.

(19) "Qualifying patient" means a person who:

(a)(i) Is a patient of a health care professional;

(ii) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;

(iii) Is a resident of the state of Washington at the time of such diagnosis;

(iv) Has been advised by that health care professional about the risks and benefits of the medical use of marijuana;

(v) Has been advised by that health care professional that they may benefit from the medical use of marijuana;

(vi)(A) Has an authorization from his or her health care professional; or

(B) Beginning July 1, 2016, has been entered into the medical marijuana authorization database and has been provided a recognition card; and

(vii) Is otherwise in compliance with the terms and conditions established in this chapter.

(b) "Qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

(20) "Recognition card" means a card issued to qualifying patients and designated providers by a marijuana retailer with a medical marijuana endorsement that has entered them into the medical marijuana authorization database.

(21) "Retail outlet" has the meaning provided in RCW 69.50.101.

(22) "Secretary" means the secretary of the department of health.

(23) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or modification of information on the paper; or

(c) One or more features designed to prevent the use of counterfeit authorization.

(24) "Terminal or debilitating medical condition" means a condition severe enough to significantly interfere with the patient's activities of daily living and ability to function, which can be objectively assessed and evaluated and limited to the following:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders;

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications;

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications;

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications;

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications;

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications;

(g) Posttraumatic stress disorder; or

(h) Traumatic brain injury.

(25) "THC concentration" has the meaning provided in RCW 69.50.101.

(26) "Useable marijuana" has the meaning provided in RCW 69.50.101.

**Sec.**  RCW 70.41.210 and 2008 c 134 s 14 are each amended to read as follows:

(1) The chief administrator or executive officer of a hospital shall report to the department when the practice of a health care practitioner as defined in subsection (2) of this section is restricted, suspended, limited, or terminated based upon a conviction, determination, or finding by the hospital that the health care practitioner has committed an action defined as unprofessional conduct under RCW 18.130.180. The chief administrator or executive officer shall also report any voluntary restriction or termination of the practice of a health care practitioner as defined in subsection (2) of this section while the practitioner is under investigation or the subject of a proceeding by the hospital regarding unprofessional conduct, or in return for the hospital not conducting such an investigation or proceeding or not taking action. The department will forward the report to the appropriate disciplining authority.

(2) The reporting requirements apply to the following health care practitioners: Pharmacists as defined in chapter 18.64 RCW; advanced registered nurse practitioners as defined in chapter 18.79 RCW; dentists as defined in chapter 18.32 RCW; naturopaths as defined in chapter 18.36A RCW; optometrists as defined in chapter 18.53 RCW; osteopathic physicians and surgeons as defined in chapter 18.57 RCW; ((~~osteopathic physicians' assistants as defined in chapter 18.57A RCW;~~)) physicians as defined in chapter 18.71 RCW; physician assistants as defined in chapter 18.71A RCW; podiatric physicians and surgeons as defined in chapter 18.22 RCW; and psychologists as defined in chapter 18.83 RCW.

(3) Reports made under subsection (1) of this section shall be made within fifteen days of the date: (a) A conviction, determination, or finding is made by the hospital that the health care practitioner has committed an action defined as unprofessional conduct under RCW 18.130.180; or (b) the voluntary restriction or termination of the practice of a health care practitioner, including his or her voluntary resignation, while under investigation or the subject of proceedings regarding unprofessional conduct under RCW 18.130.180 is accepted by the hospital.

(4) Failure of a hospital to comply with this section is punishable by a civil penalty not to exceed five hundred dollars.

(5) A hospital, its chief administrator, or its executive officer who files a report under this section is immune from suit, whether direct or derivative, in any civil action related to the filing or contents of the report, unless the conviction, determination, or finding on which the report and its content are based is proven to not have been made in good faith. The prevailing party in any action brought alleging the conviction, determination, finding, or report was not made in good faith, shall be entitled to recover the costs of litigation, including reasonable attorneys' fees.

(6) The department shall forward reports made under subsection (1) of this section to the appropriate disciplining authority designated under Title 18 RCW within fifteen days of the date the report is received by the department. The department shall notify a hospital that has made a report under subsection (1) of this section of the results of the disciplining authority's case disposition decision within fifteen days after the case disposition. Case disposition is the decision whether to issue a statement of charges, take informal action, or close the complaint without action against a practitioner. In its biennial report to the legislature under RCW 18.130.310, the department shall specifically identify the case dispositions of reports made by hospitals under subsection (1) of this section.

(7) The department shall not increase hospital license fees to carry out this section before July 1, 2008.

**Sec.**  RCW 70.54.400 and 2009 c 438 s 1 are each amended to read as follows:

(1) For purposes of this section:

(a) "Customer" means an individual who is lawfully on the premises of a retail establishment.

(b) "Eligible medical condition" means:

(i) Crohn's disease, ulcerative colitis, or any other inflammatory bowel disease;

(ii) Irritable bowel syndrome;

(iii) Any condition requiring use of an ostomy device; or

(iv) Any permanent or temporary medical condition that requires immediate access to a restroom.

(c) "Employee restroom" means a restroom intended for employees only in a retail facility and not intended for customers.

(d) "Health care provider" means an advanced registered nurse practitioner licensed under chapter 18.79 RCW, an osteopathic physician or surgeon licensed under chapter 18.57 RCW, ((~~an osteopathic physicians assistant licensed under chapter 18.57A RCW,~~)) a physician or surgeon licensed under chapter 18.71 RCW, or a physician assistant licensed under chapter 18.71A RCW.

(e) "Retail establishment" means a place of business open to the general public for the sale of goods or services. Retail establishment does not include any structure such as a filling station, service station, or restaurant of eight hundred square feet or less that has an employee restroom located within that structure.

(2) A retail establishment that has an employee restroom must allow a customer with an eligible medical condition to use that employee restroom during normal business hours if:

(a) The customer requesting the use of the employee restroom provides in writing either:

(i) A signed statement by the customer's health care provider on a form that has been prepared by the department of health under subsection (4) of this section; or

(ii) An identification card that is issued by a nonprofit organization whose purpose includes serving individuals who suffer from an eligible medical condition; and

(b) One of the following conditions are met:

(i) The employee restroom is reasonably safe and is not located in an area where providing access would create an obvious health or safety risk to the customer; or

(ii) Allowing the customer to access the restroom facility does not pose a security risk to the retail establishment or its employees.

(3) A retail establishment that has an employee restroom must allow a customer to use that employee restroom during normal business hours if:

(a)(i) Three or more employees of the retail establishment are working at the time the customer requests use of the employee restroom; and

(ii) The retail establishment does not normally make a restroom available to the public; and

(b)(i) The employee restroom is reasonably safe and is not located in an area where providing access would create an obvious health or safety risk to the customer; or

(ii) Allowing the customer to access the employee restroom does not pose a security risk to the retail establishment or its employees.

(4) The department of health shall develop a standard electronic form that may be signed by a health care provider as evidence of the existence of an eligible medical condition as required by subsection (2) of this section. The form shall include a brief description of a customer's rights under this section and shall be made available for a customer or his or her health care provider to access by computer. Nothing in this section requires the department to distribute printed versions of the form.

(5) Fraudulent use of a form as evidence of the existence of an eligible medical condition is a misdemeanor punishable under RCW 9A.20.010.

(6) For a first violation of this section, the city or county attorney shall issue a warning letter to the owner or operator of the retail establishment, and to any employee of a retail establishment who denies access to an employee restroom in violation of this section, informing the owner or operator of the establishment and employee of the requirements of this section. A retail establishment or an employee of a retail establishment that violates this section after receiving a warning letter is guilty of a class 2 civil infraction under chapter 7.80 RCW.

(7) A retail establishment is not required to make any physical changes to an employee restroom under this section and may require that an employee accompany a customer or a customer with an eligible medical condition to the employee restroom.

(8) A retail establishment or an employee of a retail establishment is not civilly liable for any act or omission in allowing a customer or a customer with an eligible medical condition to use an employee restroom if the act or omission meets all of the following:

(a) It is not willful or grossly negligent;

(b) It occurs in an area of the retail establishment that is not accessible to the public; and

(c) It results in an injury to or death of the customer or the customer with an eligible medical condition or any individual other than an employee accompanying the customer or the customer with an eligible medical condition.

**Sec.**  RCW 70.128.120 and 2015 c 66 s 2 are each amended to read as follows:

Each adult family home provider, applicant, and each resident manager shall have the following minimum qualifications, except that only applicants are required to meet the provisions of subsections (10) and (11) of this section:

(1) Twenty-one years of age or older;

(2) For those applying after September 1, 2001, to be licensed as providers, and for resident managers whose employment begins after September 1, 2001, a United States high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 or any English or translated government documentation of the following:

(a) Successful completion of government-approved public or private school education in a foreign country that includes an annual average of one thousand hours of instruction over twelve years or no less than twelve thousand hours of instruction;

(b) A foreign college, foreign university, or United States community college two-year diploma;

(c) Admission to, or completion of coursework at, a foreign university or college for which credit was granted;

(d) Admission to, or completion of coursework at, a United States college or university for which credits were awarded;

(e) Admission to, or completion of postgraduate coursework at, a United States college or university for which credits were awarded; or

(f) Successful passage of the United States board examination for registered nursing, or any professional medical occupation for which college or university education preparation was required;

(3) Good moral and responsible character and reputation;

(4) Literacy and the ability to communicate in the English language;

(5) Management and administrative ability to carry out the requirements of this chapter;

(6) Satisfactory completion of department-approved basic training and continuing education training as required by RCW 74.39A.074, and in rules adopted by the department;

(7) Satisfactory completion of department-approved, or equivalent, special care training before a provider may provide special care services to a resident;

(8) Not been convicted of any crime that is disqualifying under RCW 43.43.830 or 43.43.842, or department rules adopted under this chapter, or been found to have abused, neglected, exploited, or abandoned a minor or vulnerable adult as specified in RCW 74.39A.056(2);

(9) For those applying to be licensed as providers, and for resident managers whose employment begins after August 24, 2011, at least one thousand hours in the previous sixty months of successful, direct caregiving experience obtained after age eighteen to vulnerable adults in a licensed or contracted setting prior to operating or managing an adult family home. The applicant or resident manager must have credible evidence of the successful, direct caregiving experience or, currently hold one of the following professional licenses: Physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; ((~~osteopathic physician assistant licensed under chapter 18.57A RCW;~~)) physician assistant licensed under chapter 18.71A RCW; registered nurse, advanced registered nurse practitioner, or licensed practical nurse licensed under chapter 18.79 RCW;

(10) For applicants, proof of financial solvency, as defined in rule; and

(11) Applicants must successfully complete an adult family home administration and business planning class, prior to being granted a license. The class must be a minimum of forty-eight hours of classroom time and approved by the department. The department shall promote and prioritize bilingual capabilities within available resources and when materials are available for this purpose. Under exceptional circumstances, such as the sudden and unexpected death of a provider, the department may consider granting a license to an applicant who has not completed the class but who meets all other requirements. If the department decides to grant the license due to exceptional circumstances, the applicant must have enrolled in or completed the class within four months of licensure.

**Sec.**  RCW 70.180.030 and 1994 sp.s. c 9 s 746 and 1994 c 103 s 2 are each reenacted and amended to read as follows:

(1) The department, in cooperation with the University of Washington school of medicine, the state's registered nursing programs, the state's pharmacy programs, and other appropriate public and private agencies and associations, shall develop and keep current a register of physicians, physician assistants, pharmacists, and advanced registered nurse practitioners who are available to practice on a short-term basis in rural communities of the state. The department shall list only individuals who have a valid license to practice. The register shall be compiled and made available to all rural hospitals, public health departments and districts, rural pharmacies, and other appropriate public and private agencies and associations.

(2) Eligible health care professionals are those licensed under chapters 18.57, ((~~18.57A,~~)) 18.64, 18.71, and 18.71A RCW and advanced registered nurse practitioners licensed under chapter 18.79 RCW.

(3) Participating sites may:

(a) Receive reimbursement for substitute provider travel to and from the rural community and for lodging at a rate determined under RCW 43.03.050 and 43.03.060; and

(b) Receive reimbursement for the cost of malpractice insurance if the services provided are not covered by the substitute provider's or local provider's existing medical malpractice insurance. Reimbursement for malpractice insurance shall only be made available to sites that incur additional costs for substitute provider coverage.

(4) The department may require rural communities to participate in health professional recruitment programs as a condition for providing a temporary substitute health care professional if the community does not have adequate permanent health care personnel. To the extent deemed appropriate and subject to funding, the department may also require communities to participate in other programs or projects, such as the rural health system project authorized in chapter 70.175 RCW, that are designed to assist communities to reorganize the delivery of rural health care services.

(5) A participating site may receive reimbursement for substitute provider assistance as provided for in subsection (3) of this section for up to ninety days during any twelve-month period. The department may modify or waive this limitation should it determine that the health and safety of the community warrants a waiver or modification.

(6) Participating sites shall:

(a) Be responsible for all salary expenses for the temporary substitute provider.

(b) Provide the temporary substitute provider with referral and backup coverage information.

**Sec.**  RCW 70.185.090 and 1993 c 492 s 274 are each amended to read as follows:

(1) The department may develop a mechanism for underserved rural or urban communities to contract with education and training programs for student positions above the full time equivalent lids. The goal of this program is to provide additional capacity, educating students who will practice in underserved communities.

(2) Eligible education and training programs are those programs approved by the department that lead to eligibility for a credential as a credentialed health care professional. Eligible professions are those licensed under chapters 18.36A, 18.57, ((~~18.57A,~~)) 18.71, and 18.71A RCW and advanced registered nurse practitioners and certified nurse midwives licensed under chapter ((~~18.88~~)) 18.79 RCW, and may include other providers identified as needed in the health personnel resource plan.

(3) Students participating in the community contracted educational positions shall meet all applicable educational program requirements and provide assurances, acceptable to the community, that they will practice in the sponsoring community following completion of education and necessary licensure.

(4) Participants in the program incur an obligation to repay any contracted funds with interest set by state law, unless they serve at least three years in the sponsoring community.

(5) The department may provide funds to communities for use in contracting.

**Sec.**  RCW 70.225.040 and 2019 c 314 s 23 are each amended to read as follows:

(1) All information submitted to the prescription monitoring program is confidential, exempt from public inspection, copying, and disclosure under chapter 42.56 RCW, not subject to subpoena or discovery in any civil action, and protected under federal health care information privacy requirements, except as provided in subsections (3) through (6) of this section. Such confidentiality and exemption from disclosure continues whenever information from the prescription monitoring program is provided to a requestor under subsection (3), (4), (5), or (6) of this section except when used in proceedings specifically authorized in subsection (3), (4), or (5) of this section.

(2) The department must maintain procedures to ensure that the privacy and confidentiality of all information collected, recorded, transmitted, and maintained including, but not limited to, the prescriber, requestor, dispenser, patient, and persons who received prescriptions from dispensers, is not disclosed to persons except as in subsections (3) through (6) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances or legend drugs, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) A health professional licensing, certification, or regulatory agency or entity in this or another jurisdiction. Consistent with current practice, the data provided may be used in legal proceedings concerning the license;

(d) Appropriate law enforcement or prosecutorial officials, including local, state, and federal officials and officials of federally recognized tribes, who are engaged in a bona fide specific investigation involving a designated person;

(e) The director or the director's designee within the health care authority regarding medicaid recipients and members of the health care authority self-funded or self-insured health plans;

(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(h) Other entities under grand jury subpoena or court order;

(i) Personnel of the department for purposes of:

(i) Assessing prescribing and treatment practices and morbidity and mortality related to use of controlled substances and developing and implementing initiatives to protect the public health including, but not limited to, initiatives to address opioid use disorder;

(ii) Providing quality improvement feedback to prescribers, including comparison of their respective data to aggregate data for prescribers with the same type of license and same specialty; and

(iii) Administration and enforcement of this chapter or chapter 69.50 RCW;

(j) Personnel of a test site that meet the standards under RCW 70.225.070 pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person;

(k) A health care facility or entity for the purpose of providing medical or pharmaceutical care to the patients of the facility or entity, or for quality improvement purposes if the facility or entity is licensed by the department or is licensed or certified under chapter 71.24, 71.34, or 71.05 RCW or is an entity deemed for purposes of chapter 71.24 RCW to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body, or is operated by the federal government or a federally recognized Indian tribe;

(l) A health care provider group of five or more prescribers or dispensers for purposes of providing medical or pharmaceutical care to the patients of the provider group, or for quality improvement purposes if all the prescribers or dispensers in the provider group are licensed by the department or the provider group is operated by the federal government or a federally recognized Indian tribe;

(m) The local health officer of a local health jurisdiction for the purposes of patient follow-up and care coordination following a controlled substance overdose event. For the purposes of this subsection "local health officer" has the same meaning as in RCW 70.05.010; and

(n) The coordinated care electronic tracking program developed in response to section 213, chapter 7, Laws of 2012 2nd sp. sess., commonly referred to as the seven best practices in emergency medicine, for the purposes of providing:

(i) Prescription monitoring program data to emergency department personnel when the patient registers in the emergency department; and

(ii) Notice to local health officers who have made opioid-related overdose a notifiable condition under RCW 70.05.070 as authorized by rules adopted under RCW 43.20.050, providers, appropriate care coordination staff, and prescribers listed in the patient's prescription monitoring program record that the patient has experienced a controlled substance overdose event. The department shall determine the content and format of the notice in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and the notice may be modified as necessary to reflect current needs and best practices.

(4) The department shall, on at least a quarterly basis, and pursuant to a schedule determined by the department, provide a facility or entity identified under subsection (3)(k) of this section or a provider group identified under subsection (3)(l) of this section with facility or entity and individual prescriber information if the facility, entity, or provider group:

(a) Uses the information only for internal quality improvement and individual prescriber quality improvement feedback purposes and does not use the information as the sole basis for any medical staff sanction or adverse employment action; and

(b) Provides to the department a standardized list of current prescribers of the facility, entity, or provider group. The specific facility, entity, or provider group information provided pursuant to this subsection and the requirements under this subsection must be determined by the department in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and may be modified as necessary to reflect current needs and best practices.

(5)(a) The department may publish or provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used directly or indirectly to identify individual patients, requestors, dispensers, prescribers, and persons who received prescriptions from dispensers. Direct and indirect patient identifiers may be provided for research that has been approved by the Washington state institutional review board and by the department through a data-sharing agreement.

(b)(i) The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state hospital association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement as specified in RCW 43.70.052(8) with the association. The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state medical association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement with the association.

(ii) The department may provide data including direct and indirect patient identifiers to the department of social and health services office of research and data analysis, the department of labor and industries, and the health care authority for research that has been approved by the Washington state institutional review board and, with a data-sharing agreement approved by the department, for public health purposes to improve the prevention or treatment of substance use disorders.

(iii) The department may provide a prescriber feedback report to the largest health professional association representing each of the prescribing professions. The health professional associations must distribute the feedback report to prescribers engaged in the professions represented by the associations for quality improvement purposes, so long as the reports contain no direct patient identifiers that could be used to identify individual patients, dispensers, and persons who received prescriptions from dispensers, and the association enters into a written data-sharing agreement with the department. However, reports may include indirect patient identifiers as agreed to by the department and the association in a written data-sharing agreement.

(c) For the purposes of this subsection:

(i) "Indirect patient identifiers" means data that may include: Hospital or provider identifiers, a five-digit zip code, county, state, and country of resident; dates that include month and year; age in years; and race and ethnicity; but does not include the patient's first name; middle name; last name; social security number; control or medical record number; zip code plus four digits; dates that include day, month, and year; or admission and discharge date in combination; and

(ii) "Prescribing professions" include:

(A) Allopathic physicians and physician assistants;

(B) Osteopathic physicians ((~~and physician assistants~~));

(C) Podiatric physicians;

(D) Dentists; and

(E) Advanced registered nurse practitioners.

(6) The department may enter into agreements to exchange prescription monitoring program data with established prescription monitoring programs in other jurisdictions. Under these agreements, the department may share prescription monitoring system data containing direct and indirect patient identifiers with other jurisdictions through a clearinghouse or prescription monitoring program data exchange that meets federal health care information privacy requirements. Data the department receives from other jurisdictions must be retained, used, protected, and destroyed as provided by the agreements to the extent consistent with the laws in this state.

(7) Persons authorized in subsections (3) through (6) of this section to receive data in the prescription monitoring program from the department, acting in good faith, are immune from any civil, criminal, disciplinary, or administrative liability that might otherwise be incurred or imposed for acting under this chapter.

**Sec.**  RCW 71.05.020 and 2019 c 446 s 2, 2019 c 444 s 16, and 2019 c 325 s 3001 are each reenacted and amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

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

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

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

(7) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(8) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(9) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(10) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(11) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(12) "Department" means the department of health;

(13) "Designated crisis responder" means a mental health professional appointed by the county or an entity appointed by the county, to perform the duties specified in this chapter;

(14) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(16) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(17) "Director" means the director of the authority;

(18) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

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

(20) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(21) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(22) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(23) "Hearing" means any proceeding conducted in open court. For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used herein shall include any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged mental illness affects the respondent's ability to perceive or participate in the proceeding by video;

(24) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction;

(25) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(26) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a mental disorder or substance use disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(27) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(28) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(29) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(30) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(31) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health and substance use disorder service providers under RCW 71.05.130;

(32) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(33) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(34) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(35) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(36) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(37) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(38) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders or substance use disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure withdrawal management and stabilization facilities as defined in this section, and correctional facilities operated by state and local governments;

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

(40) "Physician assistant" means a person licensed as a physician assistant under chapter ((~~18.57A or~~)) 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occuring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occuring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(53) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(55) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(56) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

**Sec.**  RCW 71.24.025 and 2019 c 325 s 1004 and 2019 c 324 s 2 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

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

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

(8) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(9) "Child" means a person under the age of eighteen years.

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

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

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

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

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

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

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

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

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

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

(17) "Department" means the department of health.

(18) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(19) "Director" means the director of the authority.

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

(21) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(22) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (23) of this section.

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

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

(25) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(26) "Licensed or certified behavioral health agency" means:

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

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

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

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

(28) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

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

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

(31) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(32) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (10), (39), and (40) of this section.

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

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

(35) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

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

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

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

(39) "Seriously disturbed person" means a person who:

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

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

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

(d) Exhibits suicidal preoccupation or attempts; or

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

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

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

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

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

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

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

(ii) Changes in custodial adult;

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

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(41) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

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

(ii) Community support services and resource management services;

(b) The department of health for:

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

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

(iii) Residential services.

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

(43) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

**Sec.**  RCW 71.32.020 and 2016 c 209 s 407 are each amended to read as follows:

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

(1) "Adult" means any individual who has attained the age of majority or is an emancipated minor.

(2) "Agent" has the same meaning as an attorney-in-fact or agent as provided in chapter 11.125 RCW.

(3) "Capacity" means that an adult has not been found to be incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

(4) "Court" means a superior court under chapter 2.08 RCW.

(5) "Health care facility" means a hospital, as defined in RCW 70.41.020; an institution, as defined in RCW 71.12.455; a state hospital, as defined in RCW 72.23.010; a nursing home, as defined in RCW 18.51.010; or a clinic that is part of a community mental health service delivery system, as defined in RCW 71.24.025.

(6) "Health care provider" means an osteopathic physician ((~~or osteopathic physician's assistant~~)) licensed under chapter 18.57 ((~~or 18.57A~~)) RCW, a physician or physician's assistant licensed under chapter 18.71 or 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.050.

(7) "Incapacitated" means an adult who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be incompetent pursuant to RCW 11.88.010(1)(e).

(8) "Informed consent" means consent that is given after the person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

(9) "Long-term care facility" has the same meaning as defined in RCW 43.190.020.

(10) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(11) "Mental health advance directive" or "directive" means a written document in which the principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of this chapter.

(12) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(13) "Principal" means an adult who has executed a mental health advance directive.

(14) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(15) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

**Sec.**  RCW 71.34.020 and 2019 c 446 s 24, 2019 c 444 s 17, 2019 c 381 s 2, and 2019 c 325 s 2001 are each reenacted and amended to read as follows:

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

(1) "Adolescent" means a minor thirteen years of age or older.

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

(3) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

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

(5) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(6) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(7) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(8) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

(10) "Department" means the department of social and health services.

(11) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(12) "Director" means the director of the authority.

(13) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(14) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(15) "Gravely disabled minor" means a minor who, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(16) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(17) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(18) "Kinship caregiver" has the same meaning as in RCW 74.13.031(19)(a).

(19) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(20) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(21) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(22) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a handicap, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(23) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(24) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(25) "Minor" means any person under the age of eighteen years.

(26) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(27)(a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to ((~~RCW 9A.72.085~~)) chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(28) "Physician assistant" means a person licensed as a physician assistant under chapter ((~~18.57A or~~)) 18.71A RCW.

(29) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(30) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(31) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(32) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(33) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(34) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(35) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(36) "Secretary" means the secretary of the department or secretary's designee.

(37) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(38) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(39) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

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

(41) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW, or a person certified as a ((~~chemical dependency~~)) substance use disorder professional trainee under RCW 18.205.095 working under the direct supervision of a certified ((~~chemical dependency~~)) substance use disorder professional.

**Sec.**  RCW 74.09.010 and 2017 c 226 s 5 are each amended to read as follows:

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

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

(2) "Bidirectional integration" means integrating behavioral health services into primary care settings and integrating primary care services into behavioral health settings.

(3) "Children's health program" means the health care services program provided to children under eighteen years of age and in households with incomes at or below the federal poverty level as annually defined by the federal department of health and human services as adjusted for family size, and who are not otherwise eligible for medical assistance or the limited casualty program for the medically needy.

(4) "Chronic care management" means the health care management within a health home of persons identified with, or at high risk for, one or more chronic conditions. Effective chronic care management:

(a) Actively assists patients to acquire self-care skills to improve functioning and health outcomes, and slow the progression of disease or disability;

(b) Employs evidence-based clinical practices;

(c) Coordinates care across health care settings and providers, including tracking referrals;

(d) Provides ready access to behavioral health services that are, to the extent possible, integrated with primary care; and

(e) Uses appropriate community resources to support individual patients and families in managing chronic conditions.

(5) "Chronic condition" means a prolonged condition and includes, but is not limited to:

(a) A mental health condition;

(b) A substance use disorder;

(c) Asthma;

(d) Diabetes;

(e) Heart disease; and

(f) Being overweight, as evidenced by a body mass index over twenty-five.

(6) "County" means the board of county commissioners, county council, county executive, or tribal jurisdiction, or its designee.

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

(8) "Department of health" means the Washington state department of health created pursuant to RCW 43.70.020.

(9) "Director" means the director of the Washington state health care authority.

(10) "Full benefit dual eligible beneficiary" means an individual who, for any month: Has coverage for the month under a medicare prescription drug plan or medicare advantage plan with part D coverage; and is determined eligible by the state for full medicaid benefits for the month under any eligibility category in the state's medicaid plan or a section 1115 demonstration waiver that provides pharmacy benefits.

(11) "Health home" or "primary care health home" means coordinated health care provided by a licensed primary care provider coordinating all medical care services, and a multidisciplinary health care team comprised of clinical and nonclinical staff. The term "coordinating all medical care services" shall not be construed to require prior authorization by a primary care provider in order for a patient to receive treatment for covered services by an optometrist licensed under chapter 18.53 RCW. Primary care health home services shall include those services defined as health home services in 42 U.S.C. Sec. 1396w-4 and, in addition, may include, but are not limited to:

(a) Comprehensive care management including, but not limited to, chronic care treatment and management;

(b) Extended hours of service;

(c) Multiple ways for patients to communicate with the team, including electronically and by phone;

(d) Education of patients on self-care, prevention, and health promotion, including the use of patient decision aids;

(e) Coordinating and assuring smooth transitions and follow-up from inpatient to other settings;

(f) Individual and family support including authorized representatives;

(g) The use of information technology to link services, track tests, generate patient registries, and provide clinical data; and

(h) Ongoing performance reporting and quality improvement.

(12) "Internal management" means the administration of medical assistance, medical care services, the children's health program, and the limited casualty program.

(13) "Limited casualty program" means the medical care program provided to medically needy persons as defined under Title XIX of the federal social security act, and to medically indigent persons who are without income or resources sufficient to secure necessary medical services.

(14) "Medical assistance" means the federal aid medical care program provided to categorically needy persons as defined under Title XIX of the federal social security act.

(15) "Medical care services" means the limited scope of care financed by state funds and provided to persons who are not eligible for medicaid under RCW 74.09.510 and who are eligible for the aged, blind, or disabled assistance program authorized in RCW 74.62.030 or the essential needs and housing support program pursuant to RCW 74.04.805.

(16) "Multidisciplinary health care team" means an interdisciplinary team of health professionals which may include, but is not limited to, medical specialists, nurses, pharmacists, nutritionists, dieticians, social workers, behavioral and mental health providers including substance use disorder prevention and treatment providers, doctors of chiropractic, physical therapists, licensed complementary and alternative medicine practitioners, home care and other long-term care providers, and physicians' assistants.

(17) "Nursing home" means nursing home as defined in RCW 18.51.010.

(18) "Poverty" means the federal poverty level determined annually by the United States department of health and human services, or successor agency.

(19) "Primary care behavioral health" means a health care integration model in which behavioral health care is colocated, collaborative, and integrated within a primary care setting.

(20) "Primary care provider" means a general practice physician, family practitioner, internist, pediatrician, osteopathic physician, naturopath, physician assistant, ((~~osteopathic physician assistant,~~)) and advanced registered nurse practitioner licensed under Title 18 RCW.

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

(22) "Whole-person care in behavioral health" means a health care integration model in which primary care services are integrated into a behavioral health setting either through colocation or community-based care management.

**Sec.**  RCW 74.42.010 and 2019 c 301 s 3 and 2019 c 12 s 1 are each reenacted and amended to read as follows:

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

(1) "Department" means the department of social and health services and the department's employees.

(2) "Direct care staff" means the staffing domain identified and defined in the center for medicare and medicaid service's five-star quality rating system and as reported through the center for medicare and medicaid service's payroll-based journal. For purposes of calculating hours per resident day minimum staffing standards for facilities with sixty-one or more licensed beds, the director of nursing services classification (job title code five), as identified in the ((~~center[s]~~)) centers for medicare and medicaid ((~~service's~~)) services' payroll-based journal, shall not be used. For facilities with sixty or fewer beds the director of nursing services classification (job title code five) shall be included in calculating hours per resident day minimum staffing standards.

(3) "Facility" refers to a nursing home as defined in RCW 18.51.010.

(4) "Geriatric behavioral health worker" means a person with a bachelor's or master's degree in social work, behavioral health, or other related areas, or a person who has received specialized training devoted to mental illness and treatment of older adults.

(5) "Licensed practical nurse" means a person licensed to practice practical nursing under chapter 18.79 RCW.

(6) "Medicaid" means Title XIX of the Social Security Act enacted by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79 Stat. 343), as amended.

(7) "Nurse practitioner" means a person licensed to practice advanced registered nursing under chapter 18.79 RCW.

(8) "Nursing care" means that care provided by a registered nurse, an advanced registered nurse practitioner, a licensed practical nurse, or a nursing assistant in the regular performance of their duties.

(9) "Physician" means a person practicing pursuant to chapter 18.57 or 18.71 RCW, including, but not limited to, a physician employed by the facility as provided in chapter 18.51 RCW.

(10) "Physician assistant" means a person practicing pursuant to chapter ((~~18.57A or~~)) 18.71A RCW.

(11) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience specified by the department.

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience.

(c) A mental health professional as defined in chapter 71.05 RCW.

(d) An intellectual disabilities professional who is a qualified therapist or a therapist approved by the department and has specialized training or one year experience in treating or working with persons with intellectual or developmental disabilities.

(e) An occupational therapist who is a graduate of a program in occupational therapy or who has equivalent education or training.

(f) A physical therapist as defined in chapter 18.74 RCW.

(g) A social worker as defined in RCW 18.320.010(2).

(h) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has equivalent education and clinical experience.

(12) "Registered nurse" means a person licensed to practice registered nursing under chapter 18.79 RCW.

(13) "Resident" means an individual residing in a nursing home, as defined in RCW 18.51.010.

**Sec.**  RCW 74.42.230 and 2019 c 55 s 20 are each amended to read as follows:

(1) The resident's attending or staff physician or authorized practitioner approved by the attending physician shall order all medications for the resident. The order may be oral or written and shall continue in effect until discontinued by a physician or other authorized prescriber, unless the order is specifically limited by time. An "authorized practitioner," as used in this section, is a registered nurse under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, ((~~an osteopathic physician assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners,~~)) a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or a pharmacist under chapter 18.64 RCW when authorized by the pharmacy quality assurance commission.

(2) An oral order shall be given only to a licensed nurse, pharmacist, or another physician. The oral order shall be recorded and physically or electronically signed immediately by the person receiving the order. The attending physician shall sign the record of the oral order in a manner consistent with good medical practice.

(3) A licensed nurse, pharmacist, or another physician receiving and recording an oral order may, if so authorized by the physician or authorized practitioner, communicate that order to a pharmacy on behalf of the physician or authorized practitioner. The order may be communicated verbally by telephone, by facsimile manually signed by the person receiving the order pursuant to subsection (2) of this section, or by electronic transmission pursuant to RCW 69.41.055. The communication of a resident's order to a pharmacy by a licensed nurse, pharmacist, or another physician acting at the prescriber's direction has the same force and effect as if communicated directly by the delegating physician or authorized practitioner. Nothing in this provision limits the authority of a licensed nurse, pharmacist, or physician to delegate to an authorized agent, including but not limited to delegation of operation of a facsimile machine by credentialed facility staff, to the extent consistent with his or her professional license.

**Sec.**  RCW 82.04.050 and 2017 3rd sp.s. c 37 s 1201 are each amended to read as follows:

(1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale as a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and also includes the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Abstract, title insurance, and escrow services;

(b) Credit bureau services;

(c) Automobile parking and storage garage services;

(d) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(e) Service charges associated with tickets to professional sporting events;

(f) The following personal services: Tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services; and

(g)(i) Operating an athletic or fitness facility, including all charges for the use of such a facility or for any associated services and amenities, except as provided in (g)(ii) of this subsection.

(ii) Notwithstanding anything to the contrary in (g)(i) of this subsection (3), the term "sale at retail" and "retail sale" under this subsection does not include:

(A) Separately stated charges for the use of an athletic or fitness facility where such use is primarily for a purpose other than engaging in or receiving instruction in a physical fitness activity;

(B) Separately stated charges for the use of a discrete portion of an athletic or fitness facility, other than a pool, where such discrete portion of the facility does not by itself meet the definition of "athletic or fitness facility" in this subsection;

(C) Separately stated charges for services, such as advertising, massage, nutritional consulting, and body composition testing, that do not require the customer to engage in physical fitness activities to receive the service. The exclusion in this subsection (3)(g)(ii)(C) does not apply to personal training services and instruction in a physical fitness activity;

(D) Separately stated charges for physical therapy provided by a physical therapist, as those terms are defined in RCW 18.74.010, or occupational therapy provided by an occupational therapy practitioner, as those terms are defined in RCW 18.59.020, when performed pursuant to a referral from an authorized health care practitioner or in consultation with an authorized health care practitioner. For the purposes of this subsection (3)(g)(ii)(D), an authorized health care practitioner means a health care practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57, ((~~18.57A,~~)) 18.71, or 18.71A RCW;

(E) Rent or association fees charged by a landlord or residential association to a tenant or residential owner with access to an athletic or fitness facility maintained by the landlord or residential association, unless the rent or fee varies depending on whether the tenant or owner has access to the facility;

(F) Services provided in the regular course of employment by an employee with access to an athletic or fitness facility maintained by the employer for use without charge by its employees or their family members;

(G) The provision of access to an athletic or fitness facility by an educational institution to its students and staff. However, charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities are a retail sale under this subsection (3)(g). For purposes of this subsection (3)(g)(ii)(G), "educational institution" has the same meaning as in RCW 82.04.170;

(H) Yoga, chi gong, or martial arts classes, training, or events held at a community center, park, school gymnasium, college or university, hospital or other medical facility, private residence, or any other facility that is not operated within and as part of an athletic or fitness facility.

(iii) Nothing in (g)(ii) of this subsection (3) may be construed to affect the taxation of sales made by the operator of an athletic or fitness facility, where such sales are defined as a retail sale under any provision of this section other than this subsection (3).

(iv) For the purposes of this subsection (3)(g), the following definitions apply:

(A) "Athletic or fitness facility" means an indoor or outdoor facility or portion of a facility that is primarily used for: Exercise classes; strength and conditioning programs; personal training services; tennis, racquetball, handball, squash, or pickleball; or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, pilates equipment, balls, climbing ropes, jump ropes, and weightlifting equipment.

(B) "Martial arts" means any of the various systems of training for physical combat or self-defense. "Martial arts" includes, but is not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing, kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido, Kendo, tai chi, and mixed martial arts.

(C) "Physical fitness activities" means activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant. "Physical fitness activities" includes participating in yoga, chi gong, or martial arts.

(4)(a) The term also includes the renting or leasing of tangible personal property to consumers.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of (a) and (b) of this subsection, the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

(b) The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.

(c)(i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii)(A) The service described in (c)(i) of this subsection (6) includes the right to access and use prewritten computer software to perform data processing.

(B) For purposes of this subsection (6)(c)(ii), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection (8) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(9) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (9), an operator must do more than maintain, inspect, or set up the tangible personal property.

(10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; (c) farmers for the purpose of providing bee pollination services; and (d) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

(13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(14) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

(15)(a) The term "sale at retail" or "retail sale" includes amounts charged, however labeled, to consumers to engage in any of the activities listed in this subsection (15)(a), including the furnishing of any associated equipment or, except as otherwise provided in this subsection, providing instruction in such activities, where such charges are not otherwise defined as a "sale at retail" or "retail sale" in this section:

(i)(A) Golf, including any variant in which either golf balls or golf clubs are used, such as miniature golf, hitting golf balls at a driving range, and golf simulators, and including fees charged by a golf course to a player for using his or her own cart. However, charges for golf instruction are not a retail sale, provided that if the instruction involves the use of a golfing facility that would otherwise require the payment of a fee, such as green fees or driving range fees, such fees, including the applicable retail sales tax, must be separately identified and charged by the golfing facility operator to the instructor or the person receiving the instruction.

(B) Notwithstanding (a)(i)(A) of this subsection (15) and except as otherwise provided in this subsection (15)(a)(i)(B), the term "sale at retail" or "retail sale" does not include amounts charged to participate in, or conduct, a golf tournament or other competitive event. However, amounts paid by event participants to the golf facility operator are retail sales under this subsection (15)(a)(i). Likewise, amounts paid by the event organizer to the golf facility are retail sales under this subsection (15)(a)(i), if such amounts vary based on the number of event participants;

(ii) Ballooning, hang gliding, indoor or outdoor sky diving, paragliding, parasailing, and similar activities;

(iii) Air hockey, billiards, pool, foosball, darts, shuffleboard, ping pong, and similar games;

(iv) Access to amusement park, theme park, and water park facilities, including but not limited to charges for admission and locker or cabana rentals. Discrete charges for rides or other attractions or entertainment that are in addition to the charge for admission are not a retail sale under this subsection (15)(a)(iv). For the purposes of this subsection, an amusement park or theme park is a location that provides permanently affixed amusement rides, games, and other entertainment, but does not include parks or zoos for which the primary purpose is the exhibition of wildlife, or fairs, carnivals, and festivals as defined in (b)(i) of this subsection;

(v) Batting cage activities;

(vi) Bowling, but not including competitive events, except that amounts paid by the event participants to the bowling alley operator are retail sales under this subsection (15)(a)(vi). Likewise, amounts paid by the event organizer to the operator of the bowling alley are retail sales under this subsection (15)(a)(vi), if such amounts vary based on the number of event participants;

(vii) Climbing on artificial climbing structures, whether indoors or outdoors;

(viii) Day trips for sightseeing purposes;

(ix) Bungee jumping, zip lining, and riding inside a ball, whether inflatable or otherwise;

(x) Horseback riding offered to the public, where the seller furnishes the horse to the buyer and providing instruction is not the primary focus of the activity, including guided rides, but not including therapeutic horseback riding provided by an instructor certified by a nonprofit organization that offers national or international certification for therapeutic riding instructors;

(xi) Fishing, including providing access to private fishing areas and charter or guided fishing, except that fishing contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xii) Guided hunting and hunting at game farms and shooting preserves, except that hunting contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xiii) Swimming, but only in respect to (A) recreational or fitness swimming that is open to the public, such as open swim, lap swimming, and special events like kids night out and pool parties during open swim time, and (B) pool parties for private events, such as birthdays, family gatherings, and employee outings. Fees for swimming lessons, to participate in swim meets and other competitions, or to join a swim team, club, or aquatic facility are not retail sales under this subsection (15)(a)(xiii);

(xiv) Go-karting, bumper cars, and other motorized activities where the seller provides the vehicle and the premises where the buyer will operate the vehicle;

(xv) Indoor or outdoor playground activities, such as inflatable bounce structures and other inflatables; mazes; trampolines; slides; ball pits; games of tag, including laser tag and soft-dart tag; and human gyroscope rides, regardless of whether such activities occur at the seller's place of business, but not including playground activities provided for children by a licensed child day care center or licensed family day care provider as those terms are defined in RCW ((~~43.215.010~~)) 43.216.010;

(xvi) Shooting sports and activities, such as target shooting, skeet, trap, sporting clays, "5" stand, and archery, but only in respect to discrete charges to members of the public to engage in these activities, but not including fees to enter a competitive event, instruction that is entirely or predominately classroom based, or to join or renew a membership at a club, range, or other facility;

(xvii) Paintball and airsoft activities;

(xviii) Skating, including ice skating, roller skating, and inline skating, but only in respect to discrete charges to members of the public to engage in skating activities, but not including skating lessons, competitive events, team activities, or fees to join or renew a membership at a skating facility, club, or other organization;

(xix) Nonmotorized snow sports and activities, such as downhill and cross-country skiing, snowboarding, ski jumping, sledding, snow tubing, snowshoeing, and similar snow sports and activities, whether engaged in outdoors or in an indoor facility with or without snow, but only in respect to discrete charges to the public for the use of land or facilities to engage in nonmotorized snow sports and activities, such as fees, however labeled, for the use of ski lifts and tows and daily or season passes for access to trails or other areas where nonmotorized snow sports and activities are conducted. However, fees for the following are not retail sales under this subsection (15)(a)(xix): (A) Instructional lessons; (B) permits issued by a governmental entity to park a vehicle on or access public lands; and (C) permits or leases granted by an owner of private timberland for recreational access to areas used primarily for growing and harvesting timber; and

(xx) Scuba diving; snorkeling; river rafting; surfing; kiteboarding; flyboarding; water slides; inflatables, such as water pillows, water trampolines, and water rollers; and similar water sports and activities.

(b) Notwithstanding anything to the contrary in this subsection (15), the term "sale at retail" or "retail sale" does not include charges:

(i) Made for admission to, and rides or attractions at, fairs, carnivals, and festivals. For the purposes of this subsection, fairs, carnivals, and festivals are events that do not exceed twenty-one days and a majority of the amusement rides, if any, are not affixed to real property;

(ii) Made by an educational institution to its students and staff for activities defined as retail sales by (a)(i) through (xx) of this subsection. However, charges made by an educational institution to its alumni or other members of the general public for these activities are a retail sale under this subsection (15). For purposes of this subsection (15)(b)(ii), "educational institution" has the same meaning as in RCW 82.04.170;

(iii) Made by a vocational school for commercial diver training that is licensed by the workforce training and education coordinating board under chapter 28C.10 RCW; or

(iv) Made for day camps offered by a nonprofit organization or state or local governmental entity that provide youth not older than age eighteen, or that are focused on providing individuals with disabilities or mental illness, the opportunity to participate in a variety of supervised activities.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 18.57A.010 (Definitions) and 1979 c 117 s 17 & 1971 ex.s. c 30 s 7;

(2)RCW 18.57A.020 (Rules fixing qualifications and restricting practice—Interim permit—Applications—Discipline—Information about current professional practice) and 2016 c 42 s 2, 2015 c 252 s 11, 1999 c 127 s 2, 1998 c 132 s 13, 1996 c 191 s 39, 1993 c 28 s 1, 1992 c 28 s 1, & 1971 ex.s. c 30 s 8;

(3)RCW 18.57A.023 (Practice requirements—Military training and experience) and 2011 c 32 s 4;

(4)RCW 18.57A.025 (Application of uniform disciplinary act) and 1986 c 259 s 93;

(5)RCW 18.57A.030 (Limitations on practice—Scope of practice) and 2016 c 155 s 24, 2013 c 203 s 3, 1993 c 28 s 2, 1986 c 259 s 95, & 1971 ex.s. c 30 s 9;

(6)RCW 18.57A.035 (Limitation on practice—Remote sites) and 2013 c 203 s 1;

(7)RCW 18.57A.040 (Practice arrangements) and 2013 c 203 s 4, 1993 c 28 s 3, & 1991 c 3 s 152;

(8)RCW 18.57A.050 (Osteopathic physician's liability, responsibility) and 1993 c 28 s 4, 1986 c 259 s 97, & 1971 ex.s. c 30 s 11;

(9)RCW 18.57A.060 (Limitations on health care services) and 2000 c 171 s 21, 1973 c 77 s 20, & 1971 ex.s. c 30 s 12;

(10)RCW 18.57A.070 (Physician assistant acupuncturist—Licensure) and 2000 c 93 s 41 & 1977 ex.s. c 233 s 1;

(11)RCW 18.57A.080 (Signing and attesting to required documentation) and 2013 c 203 s 5 & 2007 c 264 s 2;

(12)RCW 18.57A.090 (Pain management rules—Repeal—Adoption of new rules) and 2010 c 209 s 4;

(13)RCW 18.57A.100 (Down syndrome—Parent information) and 2016 c 70 s 4;

(14)RCW 18.57A.800 (Opioid drug prescribing rules—Adoption) and 2017 c 297 s 5; and

(15)RCW 18.57A.810 (Opioid drugs—Right to refuse) and 2019 c 314 s 6.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 18.71A.035 (Limitation on practice—Remote sites) and 2013 c 203 s 2; and

(2)RCW 18.71A.040 (Commission approval required—Application—Fee—Discipline) and 2013 c 203 s 7.

NEW SECTION. **Sec.**  Sections 1 through 10 and 60 of this act take effect July 1, 2021.

NEW SECTION. **Sec.**  Sections 12 through 59 of this act take effect July 1, 2022.

**--- END ---**