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**HOUSE BILL 2035**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Davis, Valdez, Ortiz-Self, Orwall, Senn, Taylor, Wicks, Harris, Ryu, Simmons, Walen, Dolan, and Callan

AN ACT Relating to establishing a behavioral health prevention and equity impact framework for the Washington state liquor and cannabis board; amending RCW 34.05.030; reenacting and amending RCW 43.376.020; adding a new chapter to Title 66 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  FINDINGS AND INTENT. (1) The legislature finds that many behavioral health disorders are preventable. There are three factors that, when taken together, will frequently result in a person developing substance use disorder: (a) A susceptible organism; (b) stress; and (c) the introduction of an addictive substance. While it is imperative that the state address all three factors, there is one state agency that plays a central role regarding (c) of this subsection. The liquor and cannabis board develops and implements the policies that dictate access and exposure to addictive substances.

(2) The legislature also finds that while different racial groups use substances at similar rates, behavioral health treatment penetration rates in communities of color are lower than in white communities. People of color experience lower rates of participation in behavioral health treatment and shorter treatment duration. There are a myriad of reasons for this, including practical barriers such as transportation and child care, and a lack of culturally appropriate behavioral health providers. Washington state has a long history of concentrating the sale of addictive substances in communities of color. This is true for tobacco, it was true for alcohol before liquor sales were privatized, and it is true for cannabis. Communities of color face the greatest exposure to sales and advertising of addictive substances and yet are the furthest from access to treatment for the behavioral health conditions that frequently result from the use of those substances.

(3) Therefore, the legislature intends to advance prevention and address health disparities by requiring the liquor and cannabis board to apply a behavioral health prevention and equity impact framework regarding the regulation of alcohol, cannabis, tobacco, and vapor products. The legislature further intends to ensure the meaningful participation of overburdened communities, vulnerable populations, communities of color, youth, families, and the prevention community in the development of policies governing the sale, use, and advertising of addictive substances.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Behavioral health prevention" means the prevention of mental health and substance use disorders.

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

(3) "Council" means the behavioral health prevention and equity impact council established in section 11 of this act.

(4) "Equitable distribution" means a fair and just, but not necessarily equal, allocation intended to mitigate disparities in benefits and burdens that are based on current conditions, including existing legacy and cumulative impacts.

(5) "Equity impact" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of laws, rules, and policies. Equity impact includes addressing disproportionate legal and health impacts in all applicable laws, rules, and policies by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm.

(6) "Evidence-based" means a process that is conducted by a systematic review of available data based on a well-established and widely used hierarchy of data in current use by other state and national programs, selected by the board, the department of health, and the health care authority. The behavioral health prevention and equity impact council may provide input on the development of the process.

(7) "Overburdened community" means a geographic area where vulnerable populations face combined, a high concentration of alcohol, cannabis, tobacco, and/or vapor product retailers, a high concentration of cannabis advertising, lack of access to behavioral health treatment, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

(8) "Significant agency action" means the following actions as identified at the beginning of the board's consideration of significant agency action or at the time when a behavioral health prevention and equity impact assessment would normally be initiated in conjunction with an agency action:

(a) The development and adoption of rules;

(b) The development and adoption of interpretative policy statements;

(c) The submission of agency request legislation to the office of the governor or the office of financial management for approval; and

(d) Any other board action deemed significant by the board consistent with section 6 of this act.

(9) "Tribal lands" has the same meaning as "Indian country" as provided in 18 U.S.C. Sec. 1151, and also includes sacred sites, traditional cultural properties, burial grounds, and other tribal sites protected by federal or state law.

(10)(a) "Vulnerable populations" means population groups that are more likely to be at higher risk of developing a mental health or substance use disorder.

(b) "Vulnerable populations" includes, but is not limited to:

(i) Populations with high rates of substance use disorders and mental health challenges;

(ii) Populations that disproportionately experience barriers to accessing behavioral health treatment and related services;

(iii) Communities with high rates of self-reported substance misuse among youth; and

(iv) Communities with high rates of self-reported mental health symptoms and suicidality among youth.

(11) "Washington behavioral health disparities map" means the data and information developed under section 10 of this act.

NEW SECTION. **Sec.**  BEHAVIORAL HEALTH PREVENTION AND EQUITY IMPACT OBLIGATIONS FOR THE WASHINGTON STATE LIQUOR AND CANNABIS BOARD. The board is required to comply with all provisions of this chapter.

NEW SECTION. **Sec.**  INCORPORATING BEHAVIORAL HEALTH PREVENTION AND EQUITY IMPACT INTO THE BOARD'S STRATEGIC PLAN. (1) By January 1, 2024, the board shall include a behavioral health prevention and equity impact implementation plan within its strategic plan. The board may additionally incorporate a behavioral health prevention and equity impact implementation plan into other significant board planning documents. The behavioral health prevention and equity impact implementation plan must describe how the board plans to apply behavioral health prevention and equity impact principles to the board's activities and must guide the board in its implementation of its obligations under this chapter.

(2) In its implementation plan, the board must include:

(a) Agency-specific goals and actions to increase equity and mitigate behavioral health impacts of agency actions;

(b) Metrics to track and measure accomplishments of the agency goals and actions;

(c) Methods to embed equitable community engagement with, and equitable participation from, members of the public, into agency practices for soliciting and receiving public comment;

(d) Strategies to ensure compliance with existing federal and state laws and policies prohibiting discrimination and promoting equality;

(e) The plan for community engagement required under section 5 of this act; and

(f) Specific plans and timelines for incorporating behavioral health prevention and equity impact principles and considerations into agency activities as required under this chapter.

(3) In developing and updating its plan, the board must consider any guidance developed by the council under section 11 of this act.

NEW SECTION. **Sec.**  EQUITABLE COMMUNITY ENGAGEMENT AND PUBLIC PARTICIPATION. (1) By July 1, 2023, the board must create and adopt a community engagement plan that describes how it will engage with overburdened communities, vulnerable populations, communities of color, youth, families, and the prevention community as the board evaluates new and existing activities and programs. This plan must describe how the board plans to facilitate equitable participation and support meaningful and direct involvement of vulnerable populations, overburdened communities, communities of color, youth, families, and the prevention community. The plan must include:

(a) How the board will identify and prioritize these populations and communities for purposes of this chapter;

(b) Best practices for outreach and communication to overcome barriers to engagement;

(c) Use of special screening tools that integrate equity and public health disparities data such as the behavioral health disparities map, to evaluate and understand the nature and needs of the people and communities who the board expects to be impacted by significant agency actions under section 6 of this act and processes under section 7 of this act to overcome barriers to participation;

(d) Processes that facilitate and support the inclusion of members of communities affected by agency decision making including, to the extent legal and practicable, but not limited to, child care and reimbursement for travel and other expenses;

(e) Methods for outreach and communication with those who face barriers, language or otherwise, to participation; and

(f) Methods to ensure individuals with disabilities can actively participate.

(2) The board must regularly review its compliance with existing laws and policies that guide community engagement and must comply with the following:

(a) Title VI of the civil rights act, prohibiting discrimination based on race, color, or national origin and requiring meaningful access to people with limited English proficiency and disability;

(b) Executive Order 05-03, requiring plain talk when communicating with the public; and

(c) Guidance related to Executive Order 13166, requiring meaningful access to agency programs and services for people with limited English proficiency.

(3) In developing and updating its plan, the board must consider any guidance developed by the council under section 11 of this act.

(4) The board may coordinate with the office of equity to identify policy and system barriers to meaningful engagement with communities and ways to overcome those barriers, as conducted by the office under RCW 43.06D.040(1)(b).

NEW SECTION. **Sec.**  BEHAVIORAL HEALTH PREVENTION AND EQUITY IMPACT ASSESSMENTS. (1)(a) When considering a significant agency action initiated after July 1, 2024, the board must conduct a behavioral health prevention and equity impact assessment in accordance with this section to inform and support the board's consideration of overburdened communities, vulnerable populations, communities of color, youth, families, and the prevention community, and to assist with the reduction of substance-related harms and the identification and reduction of behavioral health disparities.

(b) The board must aspire to complete the behavioral health prevention and equity impact assessment for a significant agency action without delaying the completion of the underlying agency action.

(2)(a) Consistent with section 2(8)(d) of this act, for the purpose of preparing behavioral health prevention and equity impact assessments, the board may deem actions significant that are additional to the significant agency actions identified in section 2(8) (a) through (c) of this act, in iterative consultation with the council and interagency work group established under section 11 of this act. By July 1, 2025, the board must consider its activities and identify and apply behavioral health prevention and equity impact assessments to any actions that the board identifies as significant that are in addition to the significant agency actions identified in section 2(8) (a) through (c) of this act. Significant agency actions designated by the board under this subsection must be actions that may negatively impact vulnerable populations or overburdened communities.

(b) In the identification of significant agency actions, the board must consider guidance issued by the council established in section 11 of this act. The board must periodically review and update its identified types of significant agency actions for which a behavioral health prevention and equity impact assessment is required under this section, and the relevant factors to the board's assessments that result from the unique mission, authorities, and priorities of the board.

(3) By July 1, 2024, and periodically thereafter, after an opportunity for public comment on its determinations, the board must:

(a) Publish on its website the types of agency actions that the board has determined are significant agency actions that require a behavioral health prevention and equity impact assessment under this section, including any significant agency actions identified under subsection (2)(a) of this section;

(b) Provide notification of the determination of the types of significant agency actions in the Washington State Register; and

(c) Prepare a behavioral health prevention and equity impact assessment when considering a listed action, after publication of the list of any additional significant agency actions identified under (a) of this subsection.

(4) The assessment obligation of the board for a significant agency action under this section is satisfied by the completion by the board of a checklist developed by the board that directs the board to at a minimum:

(a) Consider guidance prepared by the council under section 11 of this act relating to best practices on behavioral health prevention and equity impact assessments and when and how to use cumulative health impact analysis;

(b) Where applicable, use cumulative health impact analysis, such as the behavioral health disparities map or other data that considers the effects of a proposed action on overburdened communities, vulnerable populations, communities of color, youth, and families;

(c) Identify overburdened communities and vulnerable populations who are expected to be affected by the proposed action and the potential behavioral health and equity impacts;

(d) Pursuant to the consultation process in section 9 of this act and RCW 43.376.020, identify if the proposed action is expected to have any local or regional impacts to federally reserved tribal rights and resources including, but not limited to, those protected by treaty, executive order, or federal law;

(e) Summarize community input and describe how the board can further involve overburdened communities, vulnerable populations, communities of color, affected tribes, and indigenous populations in development of the proposed action; and

(f) Describe options for the board to reduce, mitigate, or eliminate identified probable impacts on overburdened communities, vulnerable populations, communities of color, youth, and families or provide a justification for not reducing, mitigating, or eliminating identified probable impacts.

(5)(a) To obtain information for the purposes of assessments, the board must solicit feedback from members of overburdened communities, vulnerable populations, communities of color, youth, and families to assist in the accurate assessment of the potential impact of the action and in developing the means to reduce or eliminate the impact on overburdened communities, vulnerable populations, communities of color, youth, and families.

(b) The board may include items in the checklist required under subsection (4) of this section that are not specified in subsection (4) of this section.

(c) The completion of a behavioral health prevention and equity impact checklist under subsection (4) of this section is not required to be a comprehensive or an exhaustive examination of all potential impacts of a significant agency action and does not require the board to conduct novel quantitative or economic analysis of the proposed significant agency action.

(6) Based on the behavioral health prevention and equity impact assessment, the board must seek, to the extent legal and feasible and consistent with the underlying statute being implemented, to reduce or eliminate any behavioral health-related harms. Consistent with the board's authority, mission, and statutory responsibilities, the board must consider each of the following methods for reducing harms or increasing equity:

(a) Reducing behavioral health impacts on overburdened communities, vulnerable populations, communities of color, youth, and families;

(b) Preventing the action from adding to the cumulative behavioral health impacts on overburdened communities, vulnerable populations, communities of color, youth, and families;

(c) Providing equitable participation and meaningful engagement of vulnerable populations, overburdened communities, communities of color, youth, families, and the prevention community in the development of the significant agency action;

(d) Prioritizing equitable distribution of resources and benefits to overburdened communities, vulnerable populations, and communities of color;

(e) Meeting community needs identified by the affected overburdened communities, vulnerable populations, and communities of color;

(f) Modifying substantive regulatory or policy requirements; and

(g) Any other mitigation techniques, including those suggested by the council, the office of equity, or representatives of overburdened communities, vulnerable populations, communities of color, youth, families, and the prevention community.

(7) If the board determines it does not have the ability or authority to avoid or reduce any estimated harm of the significant agency action on overburdened communities, vulnerable populations, communities of color, youth, or families, the board must provide a clear explanation of why it has made that determination and provide notice of that explanation to members of the public who participated in the process for the significant agency action or the process for the behavioral health prevention and equity impact assessment and who provided contact information to the board.

(8) In developing a process for conducting behavioral health prevention and equity impact assessments, the board must consider any guidance developed by the council under section 11 of this act.

NEW SECTION. **Sec.**  BEHAVIORAL HEALTH PREVENTION AND EQUITY IMPACT OBLIGATIONS OF THE BOARD RELATING TO BUDGETS AND FUNDING. (1) With consideration of the guidelines issued by the council under section 11 of this act, and in iterative consultation with the council, the board must incorporate behavioral health prevention and equity impact principles into its decision processes for budget development, making expenditures, and granting or withholding benefits. Through the incorporation of behavioral health prevention and equity impact principles into its decision processes, including by conducting behavioral health prevention and equity impact assessments where required under section 6 of this act, the board, to the extent allowed by law and consistent with legislative appropriations, must equitably distribute funding and expenditures related to programs that address or may cause harm or provide benefits towards overburdened communities, vulnerable populations, communities of color, youth, or families.

(2) Beginning on or before July 1, 2024, the board must, where practicable, take the following actions when making expenditure decisions or developing budget requests to the office of financial management and the legislature for programs impacting behavioral health prevention or equity impact goals:

(a) Focus applicable expenditures on creating benefits that are experienced by overburdened communities, vulnerable populations, communities of color, youth, and families, including creating community and population resilience, increasing protective factors, and improving the quality of life of overburdened communities, vulnerable populations, communities of color, youth, and families;

(b) Create opportunities for overburdened communities, vulnerable populations, communities of color, youth, and families to meaningfully participate in agency expenditure decisions;

(c) Clearly articulate behavioral health prevention and equity impact goals and performance metrics to communicate the basis for agency expenditures; and

(d) Consider a broad scope of contracting opportunities that effectuate behavioral health prevention and equity impact principles.

(3) The board may adopt rules or guidelines for criteria and procedures applicable to incorporating behavioral health prevention and equity impact principles in expenditure decisions, granting or withholding benefits, and processes for budget development.

(4) In incorporating behavioral health prevention and equity impact principles into its decision processes for budget development, making expenditures, and granting or withholding benefits, the board must consider any guidance developed by the council under section 11 of this act.

(5) The board may not take actions or make expenditures under this section that are inconsistent with or conflict with other statutes or with conditions or limitations on the board's appropriations.

(6) If the board, due to the breadth of its programs and funding opportunities, determines it is not practicable to take the actions listed under subsection (2) of this section for all applicable expenditure decisions and budget requests developed, the board is encouraged to prioritize taking the actions listed under subsection (2) of this section for those budget requests and expenditure decisions that are primarily directed at addressing behavioral health and equity impacts. By July 1, 2024, the board must publish on its website the types of decision processes for budget development, making expenditures, and granting or withholding benefits for which the board will take the actions listed under subsection (2) of this section.

NEW SECTION. **Sec.**  REPORTING REQUIREMENTS. (1) By September 1st of each year, the board must annually update the behavioral health prevention and equity impact council on the development and implementation of the behavioral health prevention and equity impact framework in the board's strategic plan under section 4 of this act, budgeting and funding criteria for making budgeting and funding decisions under section 7 of this act, and the community engagement plan under section 5 of this act.

(2)(a) Beginning in 2025, as part of the board's annual update to the council under subsection (1) of this section, the board must include updates on its implementation status with respect to the behavioral health prevention and equity impact assessments under section 6 of this act.

(b) By September 1st of each year beginning in 2025, the board must publish or update a dashboard report, in a uniform dashboard format on the board's website, describing the board's progress on:

(i) Incorporating behavioral health prevention and equity impact principles in its strategic plan;

(ii) The obligations of the board relating to budgets and funding under section 7 of this act; and

(iii) The board's behavioral health prevention and equity impact assessments of proposed significant agency actions, including logistical metrics related to the board's completion of the assessments.

(3) The board must publish notice on its website of significant agency actions for which the board is initiating a behavioral health prevention and equity impact assessment under section 6 of this act. The notice must include a brief description of the significant agency action and the methods for providing public comment for the board's consideration as part of the behavioral health prevention and equity impact assessment.

(4) The board must identify overburdened communities, as required by section 5 of this act, in such a way that the performance effectiveness of the duties created by this chapter can be measured, including the effectiveness of behavioral health prevention and equity impact assessments required by section 6 of this act. The board may identify and prioritize overburdened communities as needed to accomplish the purposes of this chapter.

NEW SECTION. **Sec.**  TRIBAL CONSULTATION. (1) The board shall develop a consultation framework in coordination with tribal governments that includes best practices, protocols for communication, and collaboration with federally recognized Indian tribes. Consistent with this framework, the board must offer consultation with federally recognized Indian tribes on:

(a) The inclusion or updating of a behavioral health prevention and equity impact implementation plan within the board's strategic plan required under section 4 of this act;

(b) The creation and adoption or updating of a community engagement plan required under section 5 of this act; and

(c) Significant agency actions under section 6 of this act that affect federally recognized Indian tribes' rights and interests in their tribal lands.

(2) The board and the department of health must offer consultation with federally recognized Indian tribes on the development of the Washington behavioral health disparities map under section 10 of this act.

(3) The consultation under subsections (1) and (2) of this section must be independent of any public participation process required by state law, or by the board, and regardless of whether the board receives a request for consultation from an Indian tribe.

(4) Nothing in this chapter is intended to direct, authorize, or encourage the board to collect, maintain, or provide data related to sacred sites, traditional cultural properties, burial grounds, and other tribal sites protected by federal or state law.

NEW SECTION. **Sec.**  WASHINGTON BEHAVIORAL HEALTH DISPARITIES MAP. (1) In consultation with the behavioral health prevention and equity impact council established in section 11 of this act, the department of health must develop and maintain a behavioral health disparities map. The department of health shall consult with other interested partners, members of overburdened communities and vulnerable populations, communities of color, and other agencies. The Washington behavioral health disparities map must include:

(a) The location of alcohol, tobacco, cannabis, and vapor product licensees and especially areas of high concentration of those licensees;

(b) The location of cannabis advertising, including billboards;

(c) Available data on the prevalence rate of mental health and substance use disorders;

(d) Data from the healthy youth survey, including rates of youth use across substances, rates of access to substances, and youth perception of harm associated with substances;

(e) Proximity to behavioral health treatment;

(f) Socioeconomic factors, including race, English language proficiency, education level, poverty rate, and unemployment rate;

(g) Access to protective factors for youth, including community centers and after school programs;

(h) The location of community prevention and wellness initiative coalitions; and

(i) The location of schools that have a drug and alcohol prevention and intervention specialist.

(2) The Washington behavioral health disparities map must include tools to:

(a) Track changes in mental health and substance use disorder disparities over time in an interactive, regularly updated display; and

(b) Measure the link between overall behavioral health disparity map ranks, behavioral health prevalence data, vulnerable populations characteristics, socioeconomic data, and human health data.

(3) In further developing and maintaining the behavioral health disparities map, the department of health must:

(a) Solicit feedback from representatives from overburdened communities, vulnerable populations, and communities of color through community engagement and listening sessions in all regions of the state and provide opportunities for public comment; and

(b) Request assistance from:

(i) State universities;

(ii) Other academic researchers, such as the Washington state institute for public policy, to perform modeling and create evidence-based indicators and to conduct sensitivity analyses to assess the impact of new indicators on communities and determinations of overburdened communities; and

(iii) Other state agencies to provide applicable statewide data.

(4) The department of health must:

(a) Document and publish a summary of the regular updates and revisions to the Washington behavioral health disparities map that happen over time as the new data becomes available, in order to help the public understand different versions of the map as they are published;

(b) At least every three years, perform a comprehensive evaluation of the map to ensure that the most current modeling and methods available to evaluate impacts are being used to develop and update the map's indicators;

(c) Develop technical guidance for the board and other interested agencies that includes an online training video detailing a description of how to use the behavioral health disparities map's features, access source data, and explanation of map and indicator limitations; and

(d) Provide support and consultation to the board and other interested agencies on the use of the Washington behavioral health disparities map by Washington tracking network staff.

NEW SECTION. **Sec.**  BEHAVIORAL HEALTH PREVENTION AND EQUITY IMPACT COUNCIL. (1) The behavioral health prevention and equity impact council is established to advise the board on incorporating behavioral health prevention and equity impact principles into agency activities.

(2) The council consists of 15 members appointed by the secretary of the health care authority. The councilmembers must be persons who are well-informed regarding, and committed to, behavioral health prevention and equity impact principles who, to the greatest extent practicable, represent diversity in race, ethnicity, age, gender, sexuality, and geography. At least five members shall be appointed primarily for their expertise related to the prevention of mental health and substance use disorders and at least five members shall be selected primarily for their expertise related to equity impact analysis. The council shall include no more than one representative of a business that is regulated by the board and whose ordinary business conditions are significantly affected by the actions of the board. The members of the council shall elect two members to serve as cochairs for two-year terms. The board shall serve as a nonvoting, ex officio liaison to the council. The board must identify an executive team level staff person to participate on behalf of the board.

(3) Nongovernmental members of the council must be compensated and reimbursed in accordance with RCW 43.03.050, 43.03.060, and 43.03.220.

(4) The health care authority must:

(a) Hire a manager who is responsible for overseeing all staffing and administrative duties in support of the council; and

(b) Provide all administrative and staff support for the council.

(5) In collaboration with the office of equity, the office of financial management, the council, the department of health, and the board, the health care authority must:

(a) Establish standards for the collection, analysis, and reporting of disaggregated data as it pertains to tracking population level outcomes of communities;

(b) Create statewide and agency-specific process and outcome measures to show performance:

(i) Using outcome-based methodology to determine the effectiveness of agency programs and services on reducing behavioral health disparities; and

(ii) Taking into consideration community feedback from the council on whether the performance measures established accurately measure the effectiveness of the board's programs and services in the communities served; and

(c) Create an online performance dashboard to publish performance measures and outcomes as required in section 8 of this act for the state and the board.

(6)(a) With input and assistance from the council, the health care authority must establish an interagency work group to assist the board in incorporating behavioral health prevention and equity impact principles into agency decision making. The work group must include staff from the board directed to implement behavioral health prevention and equity impact provisions under this chapter and may include members from the council. The health care authority shall provide assistance to the interagency work group by:

(i) Facilitating information sharing on behavioral health prevention and equity impact issues between agencies and the council;

(ii) Developing and providing assessment tools for the board to use in the development and evaluation of programs, services, policies, and budgets;

(iii) Providing technical assistance and compiling and creating resources for the board to use; and

(iv) Training board staff on effectively using data and tools for behavioral health prevention and equity impact assessments.

(b) The duties of the interagency work group include:

(i) Providing technical assistance to support the board's compliance with the integration of behavioral health prevention and equity impact principles into its strategic plan, behavioral health prevention and equity impact obligations for budgeting and funding criteria and decisions, behavioral health prevention and equity impact assessments, and the board's community engagement plan;

(ii) Assisting the council in developing a suggested schedule and timeline for sequencing the types of: (A) Funding and expenditure decisions subject to rules; and (B) criteria incorporating behavioral health prevention and equity impact principles;

(iii) Identifying other policies, priorities, and projects for the council's review and guidance development;

(iv) Identifying goals and metrics that the council may use to assess the board's performance in meeting the requirements of this act for purposes of communicating progress to the public, the governor, and the legislature; and

(v) Developing the guidance under subsection (7)(c) of this section in coordination with the council.

(7) The council:

(a) Shall provide a forum for the public to:

(i) Provide written or oral testimony on their behavioral health prevention and equity impact concerns;

(ii) Assist the council in understanding behavioral health prevention and equity impact priorities across the state in order to develop council recommendations to the board for issues to prioritize; and

(iii) Identify points of contact for their specific behavioral health prevention and equity impact concerns and questions;

(b) Shall work in an iterative fashion with the interagency work group to develop guidance for the behavioral health prevention and equity impact implementation plan into the board's strategic plan under section 4 of this act, behavioral health prevention and equity impact assessments under section 6 of this act, budgeting and funding criteria for making budgeting and funding decisions under section 7 of this act, and the community engagement plan under section 5 of this act;

(c) In consultation with the interagency work group:

(i) Shall regularly update its guidance under (b) of this subsection;

(ii) Shall provide guidance to the board on developing behavioral health prevention and equity impact assessments under section 6 of this act for significant agency actions;

(iii) Shall make recommendations to the board on which board actions may cause behavioral health-related harm or may disproportionately affect an overburdened community, a vulnerable population, or a community of color and therefore should be considered significant agency actions that require a behavioral health prevention and equity impact assessment under section 6 of this act;

(iv) Shall make recommendations to the board and the health care authority:

(A) On the identification and prioritization of overburdened communities under this chapter; and

(B) Related to the use by the board and the department of health of the Washington behavioral health disparities map in the board's efforts to identify and prioritize overburdened communities;

(v) May make recommendations to the board on the timing and sequencing of the board's efforts to implement this chapter; and

(vi) May make recommendations to the governor and the legislature regarding ways to improve agency compliance with the requirements of this chapter; and

(d) By December 1, 2024, and biennially thereafter, and with consideration of the information shared on September 1st each year in the board's annual updates to the council required under section 8 of this act, must:

(i) Evaluate the progress of the board in applying council guidance, and update guidance as needed; and

(ii) Communicate the board's progress to the public, the governor, and the legislature. This communication is not required to be a report and may take the form of a presentation or other format that communicates the progress of the board meeting its goals related to behavioral health prevention and equity impact in compliance with this chapter, and summarizing the work of the council under this subsection, and subsection (9) of this section.

(8) By November 30, 2024, and in compliance with RCW 43.01.036, the council must submit a report to the governor and the appropriate committees of the house of representatives and the senate on:

(a) The council's recommendations to the board on the identification of significant agency actions requiring a behavioral health prevention and equity impact assessment under subsection (7)(c)(iii) of this section;

(b) The summary of the board's progress reports provided to the council under section 8 of this act, including the status of the board's plans for performing behavioral health prevention and equity impact assessments required by section 6 of this act; and

(c) Guidance for the behavioral health prevention and equity impact implementation plan into the board's strategic plan, behavioral health prevention and equity impact assessments, budgeting and funding criteria, and the community engagement plan under subsection (7)(c)(ii) of this section.

(9) The council may:

(a) Review incorporation of the behavioral health prevention and equity impact implementation plan into the board's strategic plan under section 4 of this act, behavioral health prevention and equity impact assessments under section 6 of this act, budgeting and funding criteria for making budgeting and funding decisions under section 7 of this act, and the community engagement plan under section 5 of this act;

(b) Make recommendations for amendments to this chapter or other legislation to promote and achieve the behavioral health prevention and equity impact goals of the state;

(c) Review existing laws and make recommendations for amendments that will further the behavioral health prevention and equity impact goals;

(d) Recommend to the board or other specific agencies, or both, that they create behavioral health prevention and equity impact-focused, agency-requested legislation;

(e) Provide requested assistance to the board and other agencies that wish to incorporate behavioral health prevention and equity impact principles into agency activities; and

(f) Recommend funding strategies and allocations to build capacity in vulnerable populations, overburdened communities, and communities of color to address behavioral health prevention.

(10) The role of the council is purely advisory and council decisions are not binding on the board, another agency, individual, or organization.

(11) The health care authority must convene the first meeting of the council by January 1, 2024.

(12) All council meetings are subject to the open public meetings requirements of chapter 42.30 RCW and a public comment period must be provided at every meeting of the council.

NEW SECTION. **Sec.**  APPEALS. (1) Except as specified in subsection (2) of this section, the actions and duties set forth in this chapter are not subject to appeal.

(2)(a) Only the following agency actions undertaken under this chapter are subject to appeal:

(i) Decisions related to the designation of significant agency actions under section 6(3)(a) of this act; and

(ii) Behavioral health prevention and equity impact assessments prepared under section 6 of this act, only for behavioral health prevention and equity impact assessments for which there is an associated agency action that is appealable.

(b) Appeals of behavioral health prevention and equity impact assessments allowed under (a)(ii) of this subsection must be of the behavioral health prevention and equity impact assessment together with the accompanying agency action, as defined in RCW 34.05.010.

(3) Nothing in this chapter may be construed to create a new private right of action, other than as described in this section, on the part of any individual, entity, or agency against any state agency.

(4) Nothing in this chapter may be construed to expand, contract, or otherwise modify any rights of appeal, or procedures for appeal, under other laws other than the availability of the appeal process described in this section.

**Sec.**  RCW 43.376.020 and 2021 c 316 s 40 and 2021 c 314 s 23 are each reenacted and amended to read as follows:

In establishing a government-to-government relationship with Indian tribes, state agencies must:

(1) Make reasonable efforts to collaborate with Indian tribes in the development of policies, agreements, and program implementation that directly affect Indian tribes and develop a consultation process that is used by the agency for issues involving specific Indian tribes. Covered agencies, as defined in RCW 70A.02.010, subject to the requirements of chapter 70A.02 RCW, must offer consultation with Indian tribes on the actions specified in RCW 70A.02.100. ((~~State agencies described in section 6 of this act~~)) The Washington state liquor and cannabis board, subject to the requirements of chapter 66.--- RCW (the new chapter created in section 15 of this act), must offer consultation with Indian tribes on the actions specified in section ((~~6~~)) 9 of this act;

(2) Designate a tribal liaison who reports directly to the head of the state agency;

(3) Ensure that tribal liaisons who interact with Indian tribes and the executive directors of state agencies receive training as described in RCW 43.376.040; and

(4) Submit an annual report to the governor on activities of the state agency involving Indian tribes and on implementation of this chapter.

**Sec.**  RCW 34.05.030 and 2021 c 314 s 24 are each amended to read as follows:

(1) This chapter shall not apply to:

(a) The state militia, or

(b) The ((~~board of~~)) clemency and pardons ((~~[clemency and pardons board]~~)) board, or

(c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board, the director of financial management, and the department of enterprise services when carrying out their duties under chapter 41.06 RCW;

(e) To adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261;

(f) To actions to implement the provisions of chapter 70A.02 RCW, except as specified in RCW 70A.02.130; ((~~or~~))

(g) To actions to implement the provisions of chapter 66.--- RCW (the new chapter created in section 15 of this act), except as specified in section 12 of this act; or

(h) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) The rule-making provisions of this chapter do not apply to:

(a) Reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW; and

(b) Adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261.

(5) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

NEW SECTION. **Sec.**  Sections 1 through 12 of this act constitute a new chapter in Title 66 RCW.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**--- END ---**