

2 HB 1627 - S COMM AMD

3 By Committee on Health & Long-Term Care

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 18.35.110 and 1993 c 313 s 4 are each amended to read
8 as follows:

9 In addition to causes specified under RCW 18.130.170 and
10 18.130.180, any person licensed under this chapter may be subject to
11 disciplinary action by the board for any of the following causes:

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

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

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

21 (c) Advertising a particular model, type, or kind of hearing aid
22 for sale which purchasers or prospective purchasers responding to the
23 advertisement cannot purchase or are dissuaded from purchasing and
24 where it is established that the purpose of the advertisement is to
25 obtain prospects for the sale of a different model, type, or kind than
26 that advertised;

27 (d) Falsifying hearing test or evaluation results;

28 (e)(i) Whenever any of the following conditions are found or should
29 have been found to exist either from observations by the licensee or on
30 the basis of information furnished by the prospective hearing aid user
31 prior to fitting and dispensing a hearing aid to any such prospective
32 hearing aid user, failing to advise that prospective hearing aid user
33 in writing that the user should first consult a licensed physician
34 specializing in diseases of the ear or if no such licensed physician is
35 available in the community then to any duly licensed physician:

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

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

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

7 (D) Acute or chronic dizziness;

8 (E) Any unilateral hearing loss;

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

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

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

14 (I) Any other conditions that the board may by rule establish. It
15 is a violation of this subsection for any licensee or that licensee's
16 employees and putative agents upon making such required referral for
17 medical opinion to in any manner whatsoever disparage or discourage a
18 prospective hearing aid user from seeking such medical opinion prior to
19 the fitting and dispensing of a hearing aid. No such referral for
20 medical opinion need be made by any licensee in the instance of
21 replacement only of a hearing aid which has been lost or damaged beyond
22 repair within six months of the date of purchase. The licensee or the
23 licensee's employees or putative agents shall obtain a signed statement
24 from the hearing aid user documenting the waiver of medical clearance
25 and the waiver shall inform the prospective user that signing the
26 waiver is not in the user's best health interest: PROVIDED, That the
27 licensee shall maintain a copy of either the physician's statement
28 showing that the prospective hearing aid user has had a medical
29 evaluation or the statement waiving medical evaluation, for a period of
30 three years after the purchaser's receipt of a hearing aid. Nothing in
31 this section required to be performed by a licensee shall mean that the
32 licensee is engaged in the diagnosis of illness or the practice of
33 medicine or any other activity prohibited under the laws of this state;

34 (ii) Fitting and dispensing a hearing aid to any person under
35 eighteen years of age who has not been examined and cleared for hearing
36 aid use within the previous six months by a physician specializing in
37 otolaryngology except in the case of replacement instruments or except
38 in the case of the parents or guardian of such person refusing, for
39 good cause, to seek medical opinion: PROVIDED, That should the parents

1 or guardian of such person refuse, for good cause, to seek medical
2 opinion, the licensee shall obtain from such parents or guardian a
3 certificate to that effect in a form as prescribed by the department;

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

12 (f) Representing that the services or advice of a person licensed
13 to practice medicine and surgery under chapter 18.71 RCW or
14 (~~osteopathy~~) osteopathic medicine and surgery under chapter 18.57 RCW
15 or of a clinical audiologist will be used or made available in the
16 selection, fitting, adjustment, maintenance, or repair of hearing aids
17 when that is not true, or using the word "doctor," "clinic," or other
18 like words, abbreviations, or symbols which tend to connote a medical
19 or osteopathic medicine and surgery profession when such use is not
20 accurate;

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

22 (h) Stating or implying that the use of any hearing aid will
23 restore normal hearing, preserve hearing, prevent or retard progression
24 of a hearing impairment, or any other false, misleading, or medically
25 or audilogically unsupportable claim regarding the efficiency of a
26 hearing aid;

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

31 (j) Directly or indirectly offering, giving, permitting, or causing
32 to be given, money or anything of value to any person who advised
33 another in a professional capacity as an inducement to influence that
34 person, or to have that person influence others to purchase or contract
35 to purchase any product sold or offered for sale by the licensee, or to
36 influence any person to refrain from dealing in the products of
37 competitors.

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

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

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

5 As used in this chapter:

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

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

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

10 (4) "Osteopathic medicine and surgery" means the use of any and all
11 methods in the treatment of disease, injuries, deformities, and all
12 other physical and mental conditions in and of human beings, including
13 the use of osteopathic manipulative therapy. ((The term means the same
14 as "~~osteopathy and surgery~~".))

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

17 On all cards, signs, letterheads, envelopes and billheads used by
18 those licensed by this chapter to practice ((~~osteopathy or osteopathy~~))
19 osteopathic medicine and surgery the word "osteopathic" shall always
20 immediately precede the word "physician" and if the word "surgeon" is
21 used in connection with said name, the word "osteopathic" shall also
22 immediately precede said word "surgeon."

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

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

28 (1) The furnishing of medical assistance in cases of emergency
29 requiring immediate attention;

30 (2) The domestic administration of family remedies;

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

34 (4) The practice of dentistry, ((~~osteopathy, —osteopathy~~))
35 osteopathic medicine and surgery, nursing, chiropractic, podiatric

1 medicine and surgery, optometry, naturopathy, or any other healing art
2 licensed under the methods or means permitted by such license;

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

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

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

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

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

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

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

37 (12) The administration of nondental anesthesia by a dentist who
38 has completed a residency in anesthesiology at a school of medicine
39 approved by the commission, however, a dentist allowed to administer

1 nondental anesthesia shall do so only under authorization of the
2 patient's attending surgeon, obstetrician, or psychiatrist, and the
3 commission has jurisdiction to discipline a dentist practicing under
4 this exemption and enjoin or suspend such dentist from the practice of
5 nondental anesthesia according to this chapter and chapter 18.130 RCW;

6 (13) Emergency lifesaving service rendered by a physician's trained
7 emergency medical service intermediate life support technician and
8 paramedic, as defined in RCW 18.71.200, if the emergency lifesaving
9 service is rendered under the responsible supervision and control of a
10 licensed physician;

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

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

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

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

21 (2) Provides adequate instruction in the following subjects:
22 Anatomy, biochemistry, microbiology and immunology, pathology,
23 pharmacology, physiology, anaesthesiology, dermatology, gynecology,
24 internal medicine, neurology, obstetrics, ophthalmology, orthopedic
25 surgery, otolaryngology, pediatrics, physical medicine and
26 rehabilitation, preventive medicine and public health, psychiatry,
27 radiology, surgery, and urology, and such other subjects determined by
28 the commission;

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

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

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

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

3 (1) The secretary of the department of health, in conjunction with
4 the advice and assistance of the emergency medical services licensing
5 and certification advisory committee as prescribed in RCW 18.73.050,
6 and the commission, shall prescribe:

7 (a) Practice parameters, training standards for, and levels of,
8 physician trained emergency medical service intermediate life support
9 technicians and paramedics;

10 (b) Minimum standards and performance requirements for the
11 certification and recertification of physician's trained emergency
12 medical service intermediate life support technicians and paramedics;
13 and

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

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

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

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

23 (a) Is licensed to practice medicine and surgery pursuant to
24 chapter 18.71 RCW or (~~osteopathy~~) osteopathic medicine and surgery
25 pursuant to chapter 18.57 RCW; and

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

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

32 (5) The Uniform Disciplinary Act, chapter 18.130 RCW, governs
33 uncertified practice, the issuance and denial of certificates, and the
34 disciplining of certificate holders under this section. The secretary
35 shall be the disciplining authority under this section. Disciplinary
36 action shall be initiated against a person credentialed under this
37 chapter in a manner consistent with the responsibilities and duties of
38 the medical program director under whom such person is responsible.

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

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

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter:

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

12 (2) "Poison information center medical director" means a person
13 who: (a) Is licensed to practice medicine and surgery under chapter
14 18.71 RCW or (~~osteopathy~~) osteopathic medicine and surgery under
15 chapter 18.57 RCW; (b) is certified by the secretary under standards
16 adopted under RCW 18.76.050; and (c) provides services enumerated under
17 RCW 18.76.030 (~~and 18.76.040~~), and is responsible for supervision of
18 poison information specialists.

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

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

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

26 (1) A person may not act as a poison center medical director or
27 perform the duties of poison information specialists of a poison
28 information center without being certified by the secretary under this
29 chapter.

30 (2) Notwithstanding subsection (1) of this section, if a poison
31 center medical director terminates certification or is decertified,
32 that poison center medical director's authority may be delegated by the
33 department to any other person licensed to practice medicine and
34 surgery under chapter 18.71 RCW or (~~osteopathy~~) osteopathic medicine
35 and surgery under chapter 18.57 RCW for a period of thirty days, or
36 until a new poison center medical director is certified, whichever
37 comes first.

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

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

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

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

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

22 (4) "Health professions" means and includes the following health
23 and health-related licensed or regulated professions and occupations:
24 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
25 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
26 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;
27 dispensing opticians under chapter 18.34 RCW; hearing aids under
28 chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and
29 funeral directing under chapter 18.39 RCW; midwifery under chapter
30 18.50 RCW; nursing home administration under chapter 18.52 RCW;
31 optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter
32 18.55 RCW; (~~osteopathy and~~) osteopathic medicine and surgery under
33 chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A
34 RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine
35 under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW;
36 practical nurses under chapter 18.79 RCW; psychologists under chapter
37 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational
38 therapists licensed under chapter 18.59 RCW; respiratory care
39 practitioners certified under chapter 18.89 RCW; veterinarians and

1 animal technicians under chapter 18.92 RCW; health care assistants
2 under chapter 18.135 RCW; massage practitioners under chapter 18.108
3 RCW; acupuncturists licensed under chapter 18.06 RCW; persons
4 registered or certified under chapter 18.19 RCW; dietitians and
5 nutritionists certified by chapter 18.138 RCW; radiologic technicians
6 under chapter 18.84 RCW; and nursing assistants registered or certified
7 under chapter 18.88A RCW.

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

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

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

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

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

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

35 (11) "Registration" means the formal notification which, prior to
36 rendering services, a practitioner shall submit to a state agency
37 setting forth the name and address of the practitioner; the location,
38 nature and operation of the health activity to be practiced; and, if

1 required by the regulatory entity, a description of the service to be
2 provided.

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

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

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

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

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

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

19 (3) "Practitioner of the healing arts" or "practitioner" means a
20 person licensed by this state to practice podiatric medicine and
21 surgery, optometry, chiropractic, nursing, dentistry, ((osteopathy))
22 osteopathic medicine and surgery, or medicine and surgery or to provide
23 other health services. The term "practitioner" shall include a duly
24 accredited Christian Science practitioner: PROVIDED, HOWEVER, That a
25 person who is being furnished Christian Science treatment by a duly
26 accredited Christian Science practitioner shall not be considered, for
27 that reason alone, a neglected person for the purposes of this chapter.

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

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

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

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

37 (8) "Social service counselor" shall mean anyone engaged in a
38 professional capacity during the regular course of employment in

1 encouraging or promoting the health, welfare, support or education of
2 children, or providing social services to adults or families, including
3 mental health, drug and alcohol treatment, and domestic violence
4 programs, whether in an individual capacity, or as an employee or agent
5 of any public or private organization or institution.

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

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

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

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

24 (13) "Child protective services section" shall mean the child
25 protective services section of the department.

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

29 (15) "Sexual exploitation" includes: (a) Allowing, permitting, or
30 encouraging a child to engage in prostitution by any person; or (b)
31 allowing, permitting, encouraging, or engaging in the obscene or
32 pornographic photographing, filming, or depicting of a child by any
33 person.

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

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

1 (18) "Child protective services" means those services provided by
2 the department designed to protect children from child abuse and
3 neglect and safeguard the general welfare of such children and shall
4 include investigations of child abuse and neglect reports, including
5 reports regarding child care centers and family child care homes, and
6 the development, management, and provision of or referral to services
7 to ameliorate conditions which endanger the welfare of children, the
8 coordination of necessary programs and services relevant to the
9 prevention, intervention, and treatment of child abuse and neglect, and
10 services to children to ensure that each child has a permanent home.
11 In determining whether protective services should be provided, the
12 department shall not decline to provide such services solely because of
13 the child's unwillingness or developmental inability to describe the
14 nature and severity of the abuse or neglect.

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

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

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

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

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

28 (2)(a) "Employer" for plan I members, means the legislative
29 authority of any city, town, county, or district or the elected
30 officials of any municipal corporation that employs any law enforcement
31 officer and/or fire fighter, any authorized association of such
32 municipalities, and, except for the purposes of RCW 41.26.150, any
33 labor guild, association, or organization, which represents the fire
34 fighters or law enforcement officers of at least seven cities of over
35 20,000 population and the membership of each local lodge or division of
36 which is composed of at least sixty percent law enforcement officers or
37 fire fighters as defined in this chapter.

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

4 (i) The legislative authority of any city, town, county, or
5 district;

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

7 (iii) The governing body of any other general authority law
8 enforcement agency.

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

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

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

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

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

34 (e) The term "law enforcement officer" also includes a person
35 employed on or after January 1, 1993, as a public safety officer or
36 director of public safety, so long as the job duties substantially
37 involve only either police or fire duties, or both, and no other duties
38 in a city or town with a population of less than ten thousand. The
39 provisions of this subsection (3)(e) shall not apply to any public

1 safety officer or director of public safety who is receiving a
2 retirement allowance under this chapter as of May 12, 1993.

3 (4) "Fire fighter" means:

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

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

10 (c) Supervisory fire fighter personnel;

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

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

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

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

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

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

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

37 (i) A natural born child;

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

1 (iii) A posthumous child;

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

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

6 (b) A person shall also be deemed to be a child up to and including
7 the age of twenty years and eleven months while attending any high
8 school, college, or vocational or other educational institution
9 accredited, licensed, or approved by the state, in which it is located,
10 including the summer vacation months and all other normal and regular
11 vacation periods at the particular educational institution after which
12 the child returns to school.

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

19 (9) "Retirement fund" means the "Washington law enforcement
20 officers' and fire fighters' retirement system fund" as provided for
21 herein.

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

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

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

30 (12)(a) "Final average salary" for plan I members, means (i) for a
31 member holding the same position or rank for a minimum of twelve months
32 preceding the date of retirement, the basic salary attached to such
33 same position or rank at time of retirement; (ii) for any other member,
34 including a civil service member who has not served a minimum of twelve
35 months in the same position or rank preceding the date of retirement,
36 the average of the greatest basic salaries payable to such member
37 during any consecutive twenty-four month period within such member's
38 last ten years of service for which service credit is allowed, computed
39 by dividing the total basic salaries payable to such member during the

1 selected twenty-four month period by twenty-four; (iii) in the case of
2 disability of any member, the basic salary payable to such member at
3 the time of disability retirement; (iv) in the case of a member who
4 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
5 such member at the time of vesting.

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

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

16 (b) "Basic salary" for plan II members, means salaries or wages
17 earned by a member during a payroll period for personal services,
18 including overtime payments, and shall include wages and salaries
19 deferred under provisions established pursuant to sections 403(b),
20 414(h), and 457 of the United States Internal Revenue Code, but shall
21 exclude lump sum payments for deferred annual sick leave, unused
22 accumulated vacation, unused accumulated annual leave, or any form of
23 severance pay. In any year in which a member serves in the legislature
24 the member shall have the option of having such member's basic salary
25 be the greater of:

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

28 (ii) Such member's actual basic salary received for nonlegislative
29 public employment and legislative service combined. Any additional
30 contributions to the retirement system required because basic salary
31 under (b)(i) of this subsection is greater than basic salary under
32 (b)(ii) of this subsection shall be paid by the member for both member
33 and employer contributions.

34 (14)(a) "Service" for plan I members, means all periods of
35 employment for an employer as a fire fighter or law enforcement
36 officer, for which compensation is paid, together with periods of
37 suspension not exceeding thirty days in duration. For the purposes of
38 this chapter service shall also include service in the armed forces of
39 the United States as provided in RCW 41.26.190. Credit shall be

1 allowed for all service credit months of service rendered by a member
2 from and after the member's initial commencement of employment as a
3 fire fighter or law enforcement officer, during which the member worked
4 for seventy or more hours, or was on disability leave or disability
5 retirement. Only service credit months of service shall be counted in
6 the computation of any retirement allowance or other benefit provided
7 for in this chapter.

8 (i) For members retiring after May 21, 1971 who were employed under
9 the coverage of a prior pension act before March 1, 1970, "service"
10 shall also include (A) such military service not exceeding five years
11 as was creditable to the member as of March 1, 1970, under the member's
12 particular prior pension act, and (B) such other periods of service as
13 were then creditable to a particular member under the provisions of RCW
14 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
15 be allowed for any service rendered prior to March 1, 1970, where the
16 member at the time of rendition of such service was employed in a
17 position covered by a prior pension act, unless such service, at the
18 time credit is claimed therefor, is also creditable under the
19 provisions of such prior act.

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

23 (b) "Service" for plan II members, means periods of employment by
24 a member for one or more employers for which basic salary is earned for
25 ninety or more hours per calendar month which shall constitute a
26 service credit month. Periods of employment by a member for one or
27 more employers for which basic salary is earned for at least seventy
28 hours but less than ninety hours per calendar month shall constitute
29 one-half service credit month. Periods of employment by a member for
30 one or more employers for which basic salary is earned for less than
31 seventy hours shall constitute a one-quarter service credit month.

32 Members of the retirement system who are elected or appointed to a
33 state elective position may elect to continue to be members of this
34 retirement system.

35 Service credit years of service shall be determined by dividing the
36 total number of service credit months of service by twelve. Any
37 fraction of a service credit year of service as so determined shall be
38 taken into account in the computation of such retirement allowance or
39 benefits.

1 If a member receives basic salary from two or more employers during
2 any calendar month, the individual shall receive one service credit
3 month's service credit during any calendar month in which multiple
4 service for ninety or more hours is rendered; or one-half service
5 credit month's service credit during any calendar month in which
6 multiple service for at least seventy hours but less than ninety hours
7 is rendered; or one-quarter service credit month during any calendar
8 month in which multiple service for less than seventy hours is
9 rendered.

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

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

18 (17) "Actuarial valuation" means a mathematical determination of
19 the financial condition of a retirement plan. It includes the
20 computation of the present monetary value of benefits payable to
21 present members, and the present monetary value of future employer and
22 employee contributions, giving effect to mortality among active and
23 retired members and also to the rates of disability, retirement,
24 withdrawal from service, salary and interest earned on investments.

25 (18) "Disability board" for plan I members means either the county
26 disability board or the city disability board established in RCW
27 41.26.110.

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

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

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

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

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

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

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

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

14 (i) The fees of the following:

15 (A) A physician or surgeon licensed under the provisions of chapter
16 18.71 RCW;

17 (B) An ((osteopath)) osteopathic physician and surgeon licensed
18 under the provisions of chapter 18.57 RCW;

19 (C) A chiropractor licensed under the provisions of chapter 18.25
20 RCW.

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

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

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

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

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

28 (D) Anesthesia and oxygen;

29 (E) Rental of iron lung and other durable medical and surgical
30 equipment;

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

32 (G) Professional ambulance service when used to transport the
33 member to or from a hospital when injured by an accident or stricken by
34 a disease;

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

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

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

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

3 (L) An optometrist licensed under the provisions of chapter 18.53
4 RCW.

5 (23) "Regular interest" means such rate as the director may
6 determine.

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

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

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

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

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

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

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

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

29 (32) "General authority law enforcement agency" means any agency,
30 department, or division of a municipal corporation, political
31 subdivision, or other unit of local government of this state, and any
32 agency, department, or division of state government, having as its
33 primary function the detection and apprehension of persons committing
34 infractions or violating the traffic or criminal laws in general, but
35 not including the Washington state patrol. Such an agency, department,
36 or division is distinguished from a limited authority law enforcement
37 agency having as one of its functions the apprehension or detection of
38 persons committing infractions or violating the traffic or criminal
39 laws relating to limited subject areas, including but not limited to,

1 the state departments of natural resources, fish and wildlife, and
2 social and health services, the state gambling commission, the state
3 lottery commission, the state parks and recreation commission, the
4 state utilities and transportation commission, the state liquor control
5 board, and the state department of corrections.

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

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

10 (1) "Applicant" means:

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

15 (b) Any prospective volunteer who will have regularly scheduled
16 unsupervised access to children under sixteen years of age,
17 developmentally disabled persons, or vulnerable adults during the
18 course of his or her employment or involvement with the business or
19 organization under circumstances where such access will or may involve
20 groups of (i) five or fewer children under twelve years of age, (ii)
21 three or fewer children between twelve and sixteen years of age, (iii)
22 developmentally disabled persons, or (iv) vulnerable adults; or

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

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

31 (3) "Civil adjudication" means a specific court finding of sexual
32 abuse or exploitation or physical abuse in a dependency action under
33 RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In
34 the case of vulnerable adults, civil adjudication means a specific
35 court finding of abuse or financial exploitation in a protection
36 proceeding under chapter 74.34 RCW. It does not include administrative
37 proceedings. The term "civil adjudication" is further limited to court
38 findings that identify as the perpetrator of the abuse a named

1 individual, over the age of eighteen years, who was a party to the
2 dependency or dissolution proceeding or was a respondent in a
3 protection proceeding in which the finding was made and who contested
4 the allegation of abuse or exploitation.

5 (4) "Conviction record" means "conviction record" information as
6 defined in RCW 10.97.030(3) relating to a crime against children or
7 other persons committed by either an adult or a juvenile. It does not
8 include a conviction for an offense that has been the subject of an
9 expungement, pardon, annulment, certificate of rehabilitation, or other
10 equivalent procedure based on a finding of the rehabilitation of the
11 person convicted, or a conviction that has been the subject of a
12 pardon, annulment, or other equivalent procedure based on a finding of
13 innocence. It does include convictions for offenses for which the
14 defendant received a deferred or suspended sentence, unless the record
15 has been expunged according to law.

16 (5) "Crime against children or other persons" means a conviction of
17 any of the following offenses: Aggravated murder; first or second
18 degree murder; first or second degree kidnaping; first, second, or
19 third degree assault; first, second, or third degree assault of a
20 child; first, second, or third degree rape; first, second, or third
21 degree rape of a child; first or second degree robbery; first degree
22 arson; first degree burglary; first or second degree manslaughter;
23 first or second degree extortion; indecent liberties; incest; vehicular
24 homicide; first degree promoting prostitution; communication with a
25 minor; unlawful imprisonment; simple assault; sexual exploitation of
26 minors; first or second degree criminal mistreatment; child abuse or
27 neglect as defined in RCW 26.44.020; first or second degree custodial
28 interference; malicious harassment; first, second, or third degree
29 child molestation; first or second degree sexual misconduct with a
30 minor; first or second degree rape of a child; patronizing a juvenile
31 prostitute; child abandonment; promoting pornography; selling or
32 distributing erotic material to a minor; custodial assault; violation
33 of child abuse restraining order; child buying or selling;
34 prostitution; felony indecent exposure; criminal abandonment; or any of
35 these crimes as they may be renamed in the future.

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

1 (7) "Disciplinary board final decision" means any final decision
2 issued by a disciplining authority under chapter 18.130 RCW or the
3 secretary of the department of health for the following businesses or
4 professions:

5 (a) Chiropractic;

6 (b) Dentistry;

7 (c) Dental hygiene;

8 (d) Massage;

9 (e) Midwifery;

10 (f) Naturopathy;

11 (g) (~~Osteopathy~~) Osteopathic medicine and surgery;

12 (h) Physical therapy;

13 (i) Physicians;

14 (j) Practical nursing;

15 (k) Registered nursing; and

16 (l) Psychology.

17 "Disciplinary board final decision," for real estate brokers and
18 salespersons, means any final decision issued by the director of the
19 department of licensing for real estate brokers and salespersons.

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

21 (a) Another employee or volunteer from the same business or
22 organization as the applicant; or

23 (b) Any relative or guardian of any of the children or
24 developmentally disabled persons or vulnerable adults to which the
25 applicant has access during the course of his or her employment or
26 involvement with the business or organization.

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

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

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

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

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

7 (2) Any health maintenance organization authorized under this
8 chapter shall not be deemed to be violating any law prohibiting the
9 practice by unlicensed persons of (~~(podiatry))~~ podiatric medicine and
10 surgery, chiropractic, dental hygiene, opticianary, dentistry,
11 optometry, (~~(osteopathy))~~ osteopathic medicine and surgery, pharmacy,
12 medicine and surgery, physical therapy, nursing, or psychology:
13 PROVIDED, That this subsection shall not be construed to expand a
14 health professional's scope of practice or to allow employees of a
15 health maintenance organization to practice as a health professional
16 unless licensed.

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

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

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

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

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

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

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

34 (4) "Employer" means: (a) Any person, firm, corporation,
35 partnership, business trust, legal representative, or other business
36 entity which engages in any business, industry, profession, or activity
37 in this state and includes any unit of local government including, but
38 not limited to, a county, city, town, municipal corporation, quasi-

1 municipal corporation, or political subdivision, which (i) employed a
2 daily average of one hundred or more employees during the last calendar
3 quarter at the place where the employee requesting leave reports for
4 work, or (ii) employed a daily average of one hundred or more employees
5 during the last calendar quarter within a twenty mile radius of the
6 place where the employee requesting leave reports for work, where the
7 employer maintains a central hiring location and customarily transfers
8 employees among workplaces; and (b) the state, state institutions, and
9 state agencies.

10 (5) "Family leave" means leave from employment to care for a
11 newborn or newly adopted child under the age of six or a child under
12 eighteen years old with a terminal health condition, as provided in RCW
13 49.78.030.

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

17 (7) "Parent" means a biological or adoptive parent, or a
18 stepparent.

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

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

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

27 Unless the context requires otherwise, the definitions in this
28 section apply throughout RCW 68.50.520 through 68.50.630 and 68.50.901
29 through 68.50.904.

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

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

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

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

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

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

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

9 (8) "Person" means an individual, corporation, business trust,
10 estate, trust, partnership, joint venture, association, government,
11 governmental subdivision or agency, or any other legal or commercial
12 entity.

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

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

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

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

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

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

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

30 (a) A practitioner; or

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

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

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

37 (4) "Dispense" means the interpretation of a prescription or order
38 for a legend drug and, pursuant to that prescription or order, the

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

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

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

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

7 (8) "Drug" means:

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

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

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

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

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

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

24 (11) "Practitioner" means:

25 (a) A physician under chapter 18.71 RCW, an osteopathic physician
26 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
27 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
28 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
29 registered nurse, advanced registered nurse practitioner, or licensed
30 practical nurse under chapter 18.79 RCW, an optometrist under chapter
31 18.53 RCW who is certified by the optometry board under RCW 18.53.010,
32 an osteopathic physician assistant under chapter 18.57A RCW, a
33 physician assistant under chapter 18.71A RCW, or a pharmacist under
34 chapter 18.64 RCW;

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

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

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

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

9 It shall be unlawful for any person to sell, deliver, or possess
10 any legend drug except upon the order or prescription of a physician
11 under chapter 18.71 RCW, ((an osteopathic physician or)) an osteopathic
12 physician and surgeon under chapter 18.57 RCW, a dentist under chapter
13 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW,
14 a veterinarian under chapter 18.92 RCW, a commissioned medical or
15 dental officer in the United States armed forces or public health
16 service in the discharge of his or her official duties, a duly licensed
17 physician or dentist employed by the veterans administration in the
18 discharge of his or her official duties, a registered nurse or advanced
19 registered nurse practitioner under chapter 18.79 RCW when authorized
20 by the nursing care quality assurance commission, an osteopathic
21 physician assistant under chapter 18.57A RCW when authorized by the
22 board of osteopathic ((examiners)) medicine and surgery, a physician
23 assistant under chapter 18.71A RCW when authorized by the medical
24 quality assurance commission, a physician licensed to practice medicine
25 and surgery or a physician licensed to practice ((osteopathy))
26 osteopathic medicine and surgery, a dentist licensed to practice
27 dentistry, a podiatric physician and surgeon licensed to practice
28 podiatric medicine and surgery, or a veterinarian licensed to practice
29 veterinary medicine, in any province of Canada which shares a common
30 border with the state of Washington or in any state of the United
31 States: PROVIDED, HOWEVER, That the above provisions shall not apply
32 to sale, delivery, or possession by drug wholesalers or drug
33 manufacturers, or their agents or employees, or to any practitioner
34 acting within the scope of his or her license, or to a common or
35 contract carrier or warehouseman, or any employee thereof, whose
36 possession of any legend drug is in the usual course of business or
37 employment: PROVIDED FURTHER, That nothing in this chapter or chapter
38 18.64 RCW shall prevent a family planning clinic that is under contract

1 with the department of social and health services from selling,
2 delivering, possessing, and dispensing commercially prepackaged oral
3 contraceptives prescribed by authorized, licensed health care
4 practitioners.

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

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

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

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

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

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

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

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

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

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

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

37 (2) The term does not include:

38 (i) a controlled substance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5),
6 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any
7 geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c)
8 the term includes any positional isomer; and in RCW 69.50.204(a)(35),
9 69.50.204(c), and 69.50.208(a) the term includes any positional or
10 geometric isomer.

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

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

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

26 (q) "Marijuana" or "marihuana" means all parts of the plant
27 Cannabis, whether growing or not; the seeds thereof; the resin
28 extracted from any part of the plant; and every compound, manufacture,
29 salt, derivative, mixture, or preparation of the plant, its seeds or
30 resin. The term does not include the mature stalks of the plant, fiber
31 produced from the stalks, oil or cake made from the seeds of the plant,
32 any other compound, manufacture, salt, derivative, mixture, or
33 preparation of the mature stalks (except the resin extracted
34 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
35 which is incapable of germination.

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

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

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

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

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

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

15 (6) Cocaine base.

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

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

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

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

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

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

37 (w) "Practitioner" means:

38 (1) A physician under chapter 18.71 RCW, a physician assistant
39 under chapter 18.71A RCW, an osteopathic physician and surgeon under

1 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric
2 physician and surgeon under chapter 18.22 RCW, a veterinarian under
3 chapter 18.92 RCW, a registered nurse, advanced registered nurse
4 practitioner, or licensed practical nurse under chapter 18.79 RCW, a
5 pharmacist under chapter 18.64 RCW or a scientific investigator under
6 this chapter, licensed, registered or otherwise permitted insofar as is
7 consistent with those licensing laws to distribute, dispense, conduct
8 research with respect to or administer a controlled substance in the
9 course of their professional practice or research in this state.

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

14 (3) A physician licensed to practice medicine and surgery, a
15 physician licensed to practice ((osteopathy)) osteopathic medicine and
16 surgery, a dentist licensed to practice dentistry, a podiatric
17 physician and surgeon licensed to practice podiatric medicine and
18 surgery, or a veterinarian licensed to practice veterinary medicine in
19 any state of the United States.

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

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

26 (z) "Secretary" means the secretary of health or the secretary's
27 designee.

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

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

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

1 The local health officer shall be an experienced physician licensed
2 to practice medicine and surgery or ((osteopathy)) osteopathic
3 medicine and surgery in this state and who is qualified or
4 provisionally qualified in accordance with the standards prescribed in
5 RCW 70.05.051 through 70.05.055 to hold the office of local health
6 officer. No term of office shall be established for the local health
7 officer but the local health officer shall not be removed until after
8 notice is given, and an opportunity for a hearing before the board or
9 official responsible for his or her appointment under this section as
10 to the reason for his or her removal. The local health officer shall
11 act as executive secretary to, and administrative officer for the local
12 board of health and shall also be empowered to employ such technical
13 and other personnel as approved by the local board of health except
14 where the local board of health has appointed an administrative officer
15 under RCW 70.05.040. The local health officer shall be paid such
16 salary and allowed such expenses as shall be determined by the local
17 board of health. In home rule counties that are part of a health
18 district under this chapter and chapter 70.46 RCW the local health
19 officer and administrative officer shall be appointed by the local
20 board of health.

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

23 Notwithstanding any provisions to the contrary contained in any
24 city or county charter, the director of public health, under this
25 chapter shall meet as a minimum one of the following standards of
26 educational achievement and vocational experience to be qualified for
27 appointment to the office:

28 (1) Bachelor's degree in business administration, public
29 administration, hospital administration, management, nursing,
30 environmental health, epidemiology, public health, or its equivalent
31 and five years of experience in administration in a community-related
32 field; or

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

37 The director shall not engage in the private practice of the
38 director's profession during such tenure of office and shall not be

1 included in the classified civil service of the said city or the said
2 county.

3 If the director of public health does not meet the qualifications
4 of a health officer or a physician under RCW 70.05.050, the director
5 shall employ a person so qualified to advise the director on medical or
6 public health matters.

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

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

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

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

26 (c) Follow local rules and regulations regarding examinations,
27 quarantine, or isolation, and all rules, regulations, and orders of the
28 state board and of the department in carrying out such examination,
29 quarantine or isolation.

30 (d) Whenever the health officer shall determine on reasonable
31 grounds that an examination of any person is necessary for the
32 preservation and protection of the public health, he or she shall make
33 an examination order in writing, setting forth the name of the person
34 to be examined, the time and place of the examination, and such other
35 terms and conditions as may be necessary to protect the public health.
36 Nothing contained in this subdivision shall be construed to prevent any
37 person whom the health officer determines should have an examination
38 for infectious tuberculosis from having such an examination made by a

1 physician of his or her own choice who is licensed to practice
2 ((osteopathy)) osteopathic medicine and surgery under chapter 18.57 RCW
3 or medicine and surgery under chapter 18.71 RCW under such terms and
4 conditions as the health officer shall determine on reasonable grounds
5 to be necessary to protect the public health.

6 (e) Whenever the health officer shall determine that quarantine or
7 isolation in a particular case is necessary for the preservation and
8 protection of the public health, he or she shall make an isolation or
9 quarantine order in writing, setting forth the name of the person to be
10 isolated, the period of time during which the order shall remain
11 effective, the place of isolation or quarantine, and such other terms
12 and conditions as may be necessary to protect the public health.

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

16 (g) Upon the receipt of information that any examination,
17 quarantine, or isolation order, made and served as herein provided, has
18 been violated, the health officer shall advise the prosecuting attorney
19 of the county in which such violation has occurred, in writing, and
20 shall submit to such prosecuting attorney the information in his or her
21 possession relating to the subject matter of such examination,
22 isolation, or quarantine order, and of such violation or violations
23 thereof.

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

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

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

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

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

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

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

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

17 (e) In the case of a construction project, the costs and methods of
18 the proposed construction, including the cost and methods of energy
19 provision, and the probable impact of the construction project reviewed
20 (i) on the cost of providing health services by the person proposing
21 such construction project and (ii) on the cost and charges to the
22 public of providing health services by other persons;

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

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

28 (h) In the case of health services proposed to be provided, the
29 efficiency and appropriateness of the use of existing services and
30 facilities similar to those proposed;

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

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

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

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

1 (ii) The availability of other services in the community to be
2 served. Data used to determine the availability of other services will
3 include but not be limited to data provided by the department of social
4 and health services.

5 (3) A certificate of need application of a health maintenance
6 organization or a health care facility which is controlled, directly or
7 indirectly, by a health maintenance organization, shall be approved by
8 the department if the department finds:

9 (a) Approval of such application is required to meet the needs of
10 the members of the health maintenance organization and of the new
11 members which such organization can reasonably be expected to enroll;
12 and

13 (b) The health maintenance organization is unable to provide,
14 through services or facilities which can reasonably be expected to be
15 available to the organization, its health services in a reasonable and
16 cost-effective manner which is consistent with the basic method of
17 operation of the organization and which makes such services available
18 on a long-term basis through physicians and other health professionals
19 associated with it.

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

25 (4) Until the final expiration of the state health plan as provided
26 under RCW 70.38.919, the decision of the department on a certificate of
27 need application shall be consistent with the state health plan in
28 effect, except in emergency circumstances which pose a threat to the
29 public health. The department in making its final decision may issue
30 a conditional certificate of need if it finds that the project is
31 justified only under specific circumstances. The conditions shall
32 directly relate to the project being reviewed. The conditions may be
33 released if it can be substantiated that the conditions are no longer
34 valid and the release of such conditions would be consistent with the
35 purposes of this chapter.

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

1 (6) The department shall specify information to be required for
2 certificate of need applications. Within fifteen days of receipt of
3 the application, the department shall request additional information
4 considered necessary to the application or start the review process.
5 Applicants may decline to submit requested information through written
6 notice to the department, in which case review starts on the date of
7 receipt of the notice. Applications may be denied or limited because
8 of failure to submit required and necessary information.

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

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

29 (9) The department or its designee, shall conduct a public hearing
30 on a certificate of need application if requested unless the review is
31 expedited or subject to emergency review. The department by rule shall
32 specify the period of time within which a public hearing must be
33 requested and requirements related to public notice of the hearing,
34 procedures, recordkeeping and related matters.

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

1 (b) Any health care facility or health maintenance organization
2 that: (i) Provides services similar to the services provided by the
3 applicant and under review pursuant to this subsection; (ii) is located
4 within the applicant's health service area; and (iii) testified or
5 submitted evidence at a public hearing held pursuant to subsection (9)
6 of this section, shall be provided an opportunity to present oral or
7 written testimony and argument in a proceeding under this subsection:
8 PROVIDED, That the health care facility or health maintenance
9 organization had, in writing, requested to be informed of the
10 department's decisions.

11 (c) If the department desires to settle with the applicant prior to
12 the conclusion of the adjudicative proceeding, the department shall so
13 inform the health care facility or health maintenance organization and
14 afford them an opportunity to comment, in advance, on the proposed
15 settlement.

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

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

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

21 (c) An increase in bed capacity;

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

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

37 (13)(a) Replacement of existing nursing home beds in the same
38 planning area by an existing licensee who has operated the beds for at
39 least one year shall not require a certificate of need under this

1 chapter. The licensee shall give written notice of its intent to
2 replace the existing nursing home beds to the department and shall
3 provide the department with information as may be required pursuant to
4 rule. Replacement of the beds by a party other than the licensee is
5 subject to certificate of need review under this chapter, except as
6 otherwise permitted by subsection (14) of this section.

7 (b) When an entire nursing home ceases operation, the licensee or
8 any other party who has secured an interest in the beds may reserve his
9 or her interest in the beds for eight years or until a certificate of
10 need to replace them is issued, whichever occurs first. However, the
11 nursing home, licensee, or any other party who has secured an interest
12 in the beds must give notice of its intent to retain the beds to the
13 department of health no later than thirty days after the effective date
14 of the facility's closure. Certificate of need review shall be
15 required for any party who has reserved the nursing home beds except
16 that the need criteria shall be deemed met when the applicant is the
17 licensee who had operated the beds for at least one year, who has
18 operated the beds for at least one year immediately preceding the
19 reservation of the beds, and who is replacing the beds in the same
20 planning area.

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

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

31 For the purposes of this chapter the following words and phrases
32 shall have the following meanings unless the context clearly requires
33 otherwise:

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

36 (2) "Alcoholism" means a disease, characterized by a dependency on
37 alcoholic beverages, loss of control over the amount and circumstances
38 of use, symptoms of tolerance, physiological or psychological

1 withdrawal, or both, if use is reduced or discontinued, and impairment
2 of health or disruption of social or economic functioning.

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

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

10 (5) "Chemical dependency program" means expenditures and activities
11 of the department designed and conducted to prevent or treat alcoholism
12 and other drug addiction, including reasonable administration and
13 overhead.

14 (6) "Department" means the department of social and health
15 services.

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

21 (8) "Director" means the person administering the chemical
22 dependency program within the department.

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

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

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

33 (12) "Gravely disabled by alcohol or other drugs" means that a
34 person, as a result of the use of alcohol or other drugs: (a) Is in
35 danger of serious physical harm resulting from a failure to provide for
36 his or her essential human needs of health or safety; or (b) manifests
37 severe deterioration in routine functioning evidenced by a repeated and
38 escalating loss of cognition or volitional control over his or her

1 actions and is not receiving care as essential for his or her health or
2 safety.

3 (13) "Incapacitated by alcohol or other psychoactive chemicals"
4 means that a person, as a result of the use of alcohol or other
5 psychoactive chemicals, has his or her judgment so impaired that he or
6 she is incapable of realizing and making a rational decision with
7 respect to his or her need for treatment and presents a likelihood of
8 serious harm to himself or herself, to any other person, or to
9 property.

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

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

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

18 (17) "Likelihood of serious harm" means either: (a) A substantial
19 risk that physical harm will be inflicted by an individual upon his or
20 her own person, as evidenced by threats or attempts to commit suicide
21 or inflict physical harm on one's self; (b) a substantial risk that
22 physical harm will be inflicted by an individual upon another, as
23 evidenced by behavior that has caused the harm or that places another
24 person or persons in reasonable fear of sustaining the harm; or (c) a
25 substantial risk that physical harm will be inflicted by an individual
26 upon the property of others, as evidenced by behavior that has caused
27 substantial loss or damage to the property of others.

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

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

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

34 (21) "Secretary" means the secretary of the department of social
35 and health services.

36 (22) "Treatment" means the broad range of emergency,
37 detoxification, residential, and outpatient services and care,
38 including diagnostic evaluation, chemical dependency education and
39 counseling, medical, psychiatric, psychological, and social service

1 care, vocational rehabilitation and career counseling, which may be
2 extended to alcoholics and other drug addicts and their families,
3 persons incapacitated by alcohol or other psychoactive chemicals, and
4 intoxicated persons.

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

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

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

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

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

15 (3) "Practitioner of the healing arts" or "practitioner" means a
16 person licensed by this state to practice (~~(podiatry)~~) podiatric
17 medicine and surgery, optometry, pharmacy, physical therapy,
18 chiropractic, nursing, dentistry, (~~(osteopathy)~~) osteopathic medicine
19 and surgery, or medicine and surgery. The term "practitioner" shall
20 include a nurses aide, a nursing home administrator licensed under
21 chapter 18.52 RCW, and a duly accredited Christian Science
22 practitioner: PROVIDED, HOWEVER, That a nursing home patient who is
23 being furnished Christian Science treatment by a duly accredited
24 Christian Science practitioner shall not be considered, for that reason
25 alone, a neglected patient for the purposes of this chapter.

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

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

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

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

1 (8) "Pharmacist" means any registered pharmacist under chapter
2 18.64 RCW, whether acting in an individual capacity or as an employee
3 or agent of any public or private organization or institution.

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

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

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

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

16 **HB 1627** - S COMM AMD

17 By Committee on Health & Long-Term Care

18

19 On page 1, line 2 of the title, after "surgeon;" strike the
20 remainder of the title and insert "amending RCW 18.35.110, 18.57.001,
21 18.57.140, 18.71.030, 18.71.055, 18.71.205, 18.76.020, 18.76.060,
22 43.43.830, 48.46.170, 49.78.020, 68.50.530, 69.41.010, 69.41.030,
23 69.50.101, 70.05.050, 70.08.030, 70.28.031, 70.38.115, 70.96A.020, and
24 70.124.020; reenacting and amending RCW 18.120.020, 26.44.020, and
25 41.26.030; and providing an effective date."

--- END ---