

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5223**

Chapter 283, Laws of 2003

58th Legislature  
2003 Regular Session

MENTAL HEALTH ADVANCE DIRECTIVES

EFFECTIVE DATE: 7/27/03 - Except section 33, which becomes effective 7/1/04.

Passed by the Senate March 10, 2003  
YEAS 48 NAYS 0

BRAD OWEN

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**President of the Senate**

Passed by the House April 14, 2003  
YEAS 92 NAYS 1

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved May 14, 2003.

GARY F. LOCKE  
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**Governor of the State of Washington**

CERTIFICATE

I, Milton H. Doumit, Jr., Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5223** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MILTON H. DOUMIT JR.

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**Secretary**

FILED

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**Secretary of State  
State of Washington**



1 (b) During periods when an individual's capacity is unclear, the  
2 individual may be unable to access needed treatment because the  
3 individual may be unable to give informed consent;

4 (c) Early treatment may prevent an individual from becoming so ill  
5 that involuntary treatment is necessary; and

6 (d) Mentally ill individuals need some method of expressing their  
7 instructions and preferences for treatment and providing advance  
8 consent to or refusal of treatment.

9 The legislature recognizes that a mental health advance directive  
10 can be an essential tool for an individual to express his or her  
11 choices at a time when the effects of mental illness have not deprived  
12 him or her of the power to express his or her instructions or  
13 preferences.

14 (2) The legislature further finds that:

15 (a) A mental health advance directive must provide the individual  
16 with a full range of choices;

17 (b) Mentally ill individuals have varying perspectives on whether  
18 they want to be able to revoke a directive during periods of  
19 incapacity;

20 (c) For a mental health advance directive to be an effective tool,  
21 individuals must be able to choose how they want their directives  
22 treated during periods of incapacity; and

23 (d) There must be clear standards so that treatment providers can  
24 readily discern an individual's treatment choices.

25 Consequently, the legislature affirms that, pursuant to other  
26 provisions of law, a validly executed mental health advance directive  
27 is to be respected by agents, guardians, and other surrogate decision  
28 makers, health care providers, professional persons, and health care  
29 facilities.

30 NEW SECTION. **Sec. 2.** The definitions in this section apply  
31 throughout this chapter unless the context clearly requires otherwise.

32 (1) "Adult" means any individual who has attained the age of  
33 majority or is an emancipated minor.

34 (2) "Agent" has the same meaning as an attorney-in-fact or agent as  
35 provided in chapter 11.94 RCW.

36 (3) "Capacity" means that an adult has not been found to be  
37 incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

1 (4) "Court" means a superior court under chapter 2.08 RCW.

2 (5) "Health care facility" means a hospital, as defined in RCW  
3 70.41.020; an institution, as defined in RCW 71.12.455; a state  
4 hospital, as defined in RCW 72.23.010; a nursing home, as defined in  
5 RCW 18.51.010; or a clinic that is part of a community mental health  
6 service delivery system, as defined in RCW 71.24.025.

7 (6) "Health care provider" means an osteopathic physician or  
8 osteopathic physician's assistant licensed under chapter 18.57 or  
9 18.57A RCW, a physician or physician's assistant licensed under chapter  
10 18.71 or 18.71A RCW, or an advanced registered nurse practitioner  
11 licensed under RCW 18.79.050.

12 (7) "Incapacitated" means an adult who: (a) Is unable to  
13 understand the nature, character, and anticipated results of proposed  
14 treatment or alternatives; understand the recognized serious possible  
15 risks, complications, and anticipated benefits in treatments and  
16 alternatives, including nontreatment; or communicate his or her  
17 understanding or treatment decisions; or (b) has been found to be  
18 incompetent pursuant to RCW 11.88.010(1)(e).

19 (8) "Informed consent" means consent that is given after the  
20 person: (a) Is provided with a description of the nature, character,  
21 and anticipated results of proposed treatments and alternatives, and  
22 the recognized serious possible risks, complications, and anticipated  
23 benefits in the treatments and alternatives, including nontreatment, in  
24 language that the person can reasonably be expected to understand; or  
25 (b) elects not to be given the information included in (a) of this  
26 subsection.

27 (9) "Long-term care facility" has the same meaning as defined in  
28 RCW 43.190.020.

29 (10) "Mental disorder" means any organic, mental, or emotional  
30 impairment which has substantial adverse effects on an individual's  
31 cognitive or volitional functions.

32 (11) "Mental health advance directive" or "directive" means a  
33 written document in which the principal makes a declaration of  
34 instructions or preferences or appoints an agent to make decisions on  
35 behalf of the principal regarding the principal's mental health  
36 treatment, or both, and that is consistent with the provisions of this  
37 chapter.

1 (12) "Mental health professional" means a psychiatrist,  
2 psychologist, psychiatric nurse, or social worker, and such other  
3 mental health professionals as may be defined by rules adopted by the  
4 secretary pursuant to the provisions of chapter 71.05 RCW.

5 (13) "Principal" means an adult who has executed a mental health  
6 advance directive.

7 (14) "Professional person" means a mental health professional and  
8 shall also mean a physician, registered nurse, and such others as may  
9 be defined by rules adopted by the secretary pursuant to the provisions  
10 of chapter 71.05 RCW.

11 NEW SECTION. **Sec. 3.** (1) The definition of informed consent is to  
12 be construed to be consistent with that term as it is used in chapter  
13 7.70 RCW.

14 (2) The definitions of mental disorder, mental health professional,  
15 and professional person are to be construed to be consistent with those  
16 terms as they are defined in RCW 71.05.020.

17 NEW SECTION. **Sec. 4.** For the purposes of this chapter, an adult  
18 is presumed to have capacity.

19 **PART II**

20 **The Document:**

21 **Creation, Contents, Revocation**

22 NEW SECTION. **Sec. 5.** (1) An adult with capacity may execute a  
23 mental health advance directive.

24 (2) A directive executed in accordance with this chapter is  
25 presumed to be valid. The inability to honor one or more provisions of  
26 a directive does not affect the validity of the remaining provisions.

27 (3) A directive may include any provision relating to mental health  
28 treatment or the care of the principal or the principal's personal  
29 affairs. Without limitation, a directive may include:

30 (a) The principal's preferences and instructions for mental health  
31 treatment;

32 (b) Consent to specific types of mental health treatment;

33 (c) Refusal to consent to specific types of mental health  
34 treatment;

1 (d) Consent to admission to and retention in a facility for mental  
2 health treatment for up to fourteen days;

3 (e) Descriptions of situations that may cause the principal to  
4 experience a mental health crisis;

5 (f) Suggested alternative responses that may supplement or be in  
6 lieu of direct mental health treatment, such as treatment approaches  
7 from other providers;

8 (g) Appointment of an agent pursuant to chapter 11.94 RCW to make  
9 mental health treatment decisions on the principal's behalf, including  
10 authorizing the agent to provide consent on the principal's behalf to  
11 voluntary admission to inpatient mental health treatment; and

12 (h) The principal's nomination of a guardian or limited guardian as  
13 provided in RCW 11.94.010 for consideration by the court if  
14 guardianship proceedings are commenced.

15 (4) A directive may be combined with or be independent of a  
16 nomination of a guardian or other durable power of attorney under  
17 chapter 11.94 RCW, so long as the processes for each are executed in  
18 accordance with its own statutes.

19 NEW SECTION. **Sec. 6.** (1) A directive shall:

20 (a) Be in writing;

21 (b) Contain language that clearly indicates that the principal  
22 intends to create a directive;

23 (c) Be dated and signed by the principal or at the principal's  
24 direction in the principal's presence if the principal is unable to  
25 sign;

26 (d) Designate whether the principal wishes to be able to revoke the  
27 directive during any period of incapacity or wishes to be unable to  
28 revoke the directive during any period of incapacity; and

29 (e) Be witnessed in writing by at least two adults, each of whom  
30 shall declare that he or she personally knows the principal, was  
31 present when the principal dated and signed the directive, and that the  
32 principal did not appear to be incapacitated or acting under fraud,  
33 undue influence, or duress.

34 (2) A directive that includes the appointment of an agent under  
35 chapter 11.94 RCW shall contain the words "This power of attorney shall  
36 not be affected by the incapacity of the principal," or "This power of  
37 attorney shall become effective upon the incapacity of the principal,"

1 or similar words showing the principal's intent that the authority  
2 conferred shall be exercisable notwithstanding the principal's  
3 incapacity.

4 (3) A directive is valid upon execution, but all or part of the  
5 directive may take effect at a later time as designated by the  
6 principal in the directive.

- 7 (4) A directive may:  
8 (a) Be revoked, in whole or in part, pursuant to the provisions of  
9 section 8 of this act; or  
10 (b) Expire under its own terms.

11 NEW SECTION. **Sec. 7.** A directive may not:

12 (1) Create an entitlement to mental health or medical treatment or  
13 supersede a determination of medical necessity;

14 (2) Obligate any health care provider, professional person, or  
15 health care facility to pay the costs associated with the treatment  
16 requested;

17 (3) Obligate any health care provider, professional person, or  
18 health care facility to be responsible for the nontreatment personal  
19 care of the principal or the principal's personal affairs outside the  
20 scope of services the facility normally provides;

21 (4) Replace or supersede the provisions of any will or testamentary  
22 document or supersede the provisions of intestate succession;

23 (5) Be revoked by an incapacitated principal unless that principal  
24 selected the option to permit revocation while incapacitated at the  
25 time his or her directive was executed; or

26 (6) Be used as the authority for inpatient admission for more than  
27 fourteen days in any twenty-one day period.

28 NEW SECTION. **Sec. 8.** (1)(a) A principal with capacity may, by  
29 written statement by the principal or at the principal's direction in  
30 the principal's presence, revoke a directive in whole or in part.

31 (b) An incapacitated principal may revoke a directive only if he or  
32 she elected at the time of executing the directive to be able to revoke  
33 when incapacitated.

34 (2) The revocation need not follow any specific form so long as it  
35 is written and the intent of the principal can be discerned.

1 (3) The principal shall provide a copy of his or her written  
2 statement of revocation to his or her agent, if any, and to each health  
3 care provider, professional person, or health care facility that  
4 received a copy of the directive from the principal.

5 (4) The written statement of revocation is effective:

6 (a) As to a health care provider, professional person, or health  
7 care facility, upon receipt. The professional person, health care  
8 provider, or health care facility, or persons acting under their  
9 direction shall make the statement of revocation part of the  
10 principal's medical record; and

11 (b) As to the principal's agent, upon receipt. The principal's  
12 agent shall notify the principal's health care provider, professional  
13 person, or health care facility of the revocation and provide them with  
14 a copy of the written statement of revocation.

15 (5) A directive also may:

16 (a) Be revoked, in whole or in part, expressly or to the extent of  
17 any inconsistency, by a subsequent directive; or

18 (b) Be superseded or revoked by a court order, including any order  
19 entered in a criminal matter. A directive may be superseded by a court  
20 order regardless of whether the order contains an explicit reference to  
21 the directive. To the extent a directive is not in conflict with a  
22 court order, the directive remains effective, subject to the provisions  
23 of section 15 of this act. A directive shall not be interpreted in a  
24 manner that interferes with: (i) Incarceration or detention by the  
25 department of corrections, in a city or county jail, or by the  
26 department of social and health services; or (ii) treatment of a  
27 principal who is subject to involuntary treatment pursuant to chapter  
28 10.77, 70.96A, 71.05, 71.09, or 71.34 RCW.

29 (6) A directive that would have otherwise expired but is effective  
30 because the principal is incapacitated remains effective until the  
31 principal is no longer incapacitated unless the principal has elected  
32 to be able to revoke while incapacitated and has revoked the directive.

33 (7) When a principal with capacity consents to treatment that  
34 differs from, or refuses treatment consented to in, the provisions of  
35 his or her directive, the consent or refusal constitutes a waiver of  
36 that provision and does not constitute a revocation of the provision or  
37 directive unless the principal also revokes the directive or provision.



1        NEW SECTION.    **Sec. 9.**    A witness may not be any of the following:

2        (1) A person designated to make health care decisions on the  
3 principal's behalf;

4        (2) A health care provider or professional person directly involved  
5 with the provision of care to the principal at the time the directive  
6 is executed;

7        (3) An owner, operator, employee, or relative of an owner or  
8 operator of a health care facility or long-term care facility in which  
9 the principal is a patient or resident;

10       (4) A person who is related by blood, marriage, or adoption to the  
11 person or with whom the principal has a dating relationship, as defined  
12 in RCW 26.50.010;

13       (5) A person who is declared to be an incapacitated person; or

14       (6) A person who would benefit financially if the principal making  
15 the directive undergoes mental health treatment.

16       NEW SECTION.    **Sec. 10.**    (1) If a directive authorizes the  
17 appointment of an agent, the provisions of chapter 11.94 RCW and RCW  
18 7.70.065 shall apply unless otherwise stated in this chapter.

19       (2) The principal who appoints an agent must notify the agent in  
20 writing of the appointment.

21       (3) An agent must act in good faith.

22       (4) An agent may make decisions on behalf of the principal. Unless  
23 the principal has revoked the directive, the decisions must be  
24 consistent with the instructions and preferences the principal has  
25 expressed in the directive, or if not expressed, as otherwise known to  
26 the agent. If the principal's instructions or preferences are not  
27 known, the agent shall make a decision he or she determines is in the  
28 best interest of the principal.

29       (5) Except to the extent the right is limited by the appointment or  
30 any federal or state law, the agent has the same right as the principal  
31 to receive, review, and authorize the use and disclosure of the  
32 principal's health care information when the agent is acting on behalf  
33 of the principal and to the extent required for the agent to carry out  
34 his or her duties. This subsection shall be construed to be consistent  
35 with chapters 70.02, 70.24, 70.96A, 71.05, and 71.34 RCW, and with  
36 federal law regarding health care information.

1 (6) Unless otherwise provided in the appointment and agreed to in  
2 writing by the agent, the agent is not, as a result of acting in the  
3 capacity of agent, personally liable for the cost of treatment provided  
4 to the principal.

5 (7) An agent may resign or withdraw at any time by giving written  
6 notice to the principal. The agent must also give written notice to  
7 any health care provider, professional person, or health care facility  
8 providing treatment to the principal. The resignation or withdrawal is  
9 effective upon receipt unless otherwise specified in the resignation or  
10 withdrawal.

11 (8) If the directive gives the agent authority to act while the  
12 principal has capacity, the decisions of the principal supersede those  
13 of the agent at any time the principal has capacity.

14 (9) Unless otherwise provided in the durable power of attorney, the  
15 principal may revoke the agent's appointment as provided under other  
16 state law.

17 **PART III**

18 **Capacity and Process for Incapacitated Persons**

19 NEW SECTION. **Sec. 11.** (1) For the purposes of this chapter, a  
20 principal, agent, professional person, or health care provider may seek  
21 a determination whether the principal is incapacitated or has regained  
22 capacity.

23 (2)(a) For the purposes of this chapter, no adult may be declared  
24 an incapacitated person except by:

25 (i) A court, if the request is made by the principal or the  
26 principal's agent;

27 (ii) One mental health professional and one health care provider;  
28 or

29 (iii) Two health care providers.

30 (b) One of the persons making the determination under (a)(ii) or  
31 (iii) of this subsection must be a psychiatrist, psychologist, or a  
32 psychiatric advanced registered nurse practitioner.

33 (3) When a professional person or health care provider requests a  
34 capacity determination, he or she shall promptly inform the principal  
35 that:

36 (a) A request for capacity determination has been made; and

1 (b) The principal may request that the determination be made by a  
2 court.

3 (4) At least one mental health professional or health care provider  
4 must personally examine the principal prior to making a capacity  
5 determination.

6 (5)(a) When a court makes a determination whether a principal has  
7 capacity, the court shall, at a minimum, be informed by the testimony  
8 of one mental health professional familiar with the principal and  
9 shall, except for good cause, give the principal an opportunity to  
10 appear in court prior to the court making its determination.

11 (b) To the extent that local court rules permit, any party or  
12 witness may testify telephonically.

13 (6) When a court has made a determination regarding a principal's  
14 capacity and there is a subsequent change in the principal's condition,  
15 subsequent determinations whether the principal is incapacitated may be  
16 made in accordance with any of the provisions of subsection (2) of this  
17 section.

18 NEW SECTION. **Sec. 12.** A principal may bring an action to contest  
19 the validity of his or her directive. If an action under this section  
20 is commenced while an action to determine the principal's capacity is  
21 pending, the court shall consolidate the actions and decide the issues  
22 simultaneously.

23 NEW SECTION. **Sec. 13.** (1) An initial determination of capacity  
24 must be completed within forty-eight hours of a request made by a  
25 person authorized in section 11 of this act. During the period between  
26 the request for an initial determination of the principal's capacity  
27 and completion of that determination, the principal may not be treated  
28 unless he or she consents at the time or treatment is otherwise  
29 authorized by state or federal law.

30 (2)(a)(i) When an incapacitated principal is admitted to inpatient  
31 treatment pursuant to the provisions of his or her directive, his or  
32 her capacity must be reevaluated within seventy-two hours or when there  
33 has been a change in the principal's condition that indicates that he  
34 or she appears to have regained capacity, whichever occurs first.

35 (ii) When an incapacitated principal has been admitted to and  
36 remains in inpatient treatment for more than seventy-two hours pursuant

1 to the provisions of his or her directive, the principal's capacity  
2 must be reevaluated when there has been a change in his or her  
3 condition that indicates that he or she appears to have regained  
4 capacity.

5 (iii) When a principal who is being treated on an inpatient basis  
6 and has been determined to be incapacitated requests, or his or her  
7 agent requests, a redetermination of the principal's capacity the  
8 redetermination must be made within seventy-two hours.

9 (b) When a principal who has been determined to be incapacitated is  
10 being treated on an outpatient basis and there is a request for a  
11 redetermination of his or her capacity, the redetermination must be  
12 made within five days of the first request following a determination.

13 (3)(a) When a principal who has appointed an agent for mental  
14 health treatment decisions requests a determination or redetermination  
15 of capacity, the agent must make reasonable efforts to obtain the  
16 determination or redetermination.

17 (b) When a principal who does not have an agent for mental health  
18 treatment decisions is being treated in an inpatient facility and  
19 requests a determination or redetermination of capacity, the mental  
20 health professional or health care provider must complete the  
21 determination or, if the principal is seeking a determination from a  
22 court, must make reasonable efforts to notify the person authorized to  
23 make decisions for the principal under RCW 7.70.065 of the principal's  
24 request.

25 (c) When a principal who does not have an agent for mental health  
26 treatment decisions is being treated on an outpatient basis, the person  
27 requesting a capacity determination must arrange for the determination.

28 (4) If no determination has been made within the time frames  
29 established in subsection (1) or (2) of this section, the principal  
30 shall be considered to have capacity.

31 (5) When an incapacitated principal is being treated pursuant to  
32 his or her directive, a request for a redetermination of capacity does  
33 not prevent treatment.

34 NEW SECTION. **Sec. 14.** (1) A principal who:

35 (a) Chose not to be able to revoke his or her directive during any  
36 period of incapacity;

1 (b) Consented to voluntary admission to inpatient mental health  
2 treatment, or authorized an agent to consent on the principal's behalf;  
3 and

4 (c) At the time of admission to inpatient treatment, refuses to be  
5 admitted,

6 may only be admitted into inpatient mental health treatment under  
7 subsection (2) of this section.

8 (2) A principal may only be admitted to inpatient mental health  
9 treatment under his or her directive if, prior to admission, a  
10 physician member of the treating facility's professional staff:

11 (a) Evaluates the principal's mental condition, including a review  
12 of reasonably available psychiatric and psychological history,  
13 diagnosis, and treatment needs, and determines, in conjunction with  
14 another health care provider or mental health professional, that the  
15 principal is incapacitated;

16 (b) Obtains the informed consent of the agent, if any, designated  
17 in the directive;

18 (c) Makes a written determination that the principal needs an  
19 inpatient evaluation or is in need of inpatient treatment and that the  
20 evaluation or treatment cannot be accomplished in a less restrictive  
21 setting; and

22 (d) Documents in the principal's medical record a summary of the  
23 physician's findings and recommendations for treatment or evaluation.

24 (3) In the event the admitting physician is not a psychiatrist, the  
25 principal shall receive a complete psychological assessment by a mental  
26 health professional within twenty-four hours of admission to determine  
27 the continued need for inpatient evaluation or treatment.

28 (4)(a) If it is determined that the principal has capacity, then  
29 the principal may only be admitted to, or remain in, inpatient  
30 treatment if he or she consents at the time or is detained under the  
31 involuntary treatment provisions of chapter 70.96A, 71.05, or 71.34  
32 RCW.

33 (b) If a principal who is determined by two health care providers  
34 or one mental health professional and one health care provider to be  
35 incapacitated continues to refuse inpatient treatment, the principal  
36 may immediately seek injunctive relief for release from the facility.

37 (5) If, at the end of the period of time that the principal or the  
38 principal's agent, if any, has consented to voluntary inpatient

1 treatment, but no more than fourteen days after admission, the  
2 principal has not regained capacity or has regained capacity but  
3 refuses to consent to remain for additional treatment, the principal  
4 must be released during reasonable daylight hours, unless detained  
5 under chapter 70.96A, 71.05, or 71.34 RCW.

6 (6)(a) Except as provided in (b) of this subsection, any principal  
7 who is voluntarily admitted to inpatient mental health treatment under  
8 this chapter shall have all the rights provided to individuals who are  
9 voluntarily admitted to inpatient treatment under chapter 71.05, 71.34,  
10 or 72.23 RCW.

11 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient  
12 treatment for a specified length of time, the choices an incapacitated  
13 principal expressed in his or her directive shall control, provided,  
14 however, that a principal who takes action demonstrating a desire to be  
15 discharged, in addition to making statements requesting to be  
16 discharged, shall be discharged, and no principal shall be restrained  
17 in any way in order to prevent his or her discharge.

18 (7) Consent to inpatient admission in a directive is effective only  
19 while the professional person, health care provider, and health care  
20 facility are in substantial compliance with the material provisions of  
21 the directive related to inpatient treatment.

## 22 PART IV

### 23 Provider Responsibilities and Immunities

24 NEW SECTION. **Sec. 15.** (1) Upon receiving a directive, a health  
25 care provider, professional person, or health care facility providing  
26 treatment to the principal, or persons acting under the direction of  
27 the health care provider, professional person, or health care facility,  
28 shall make the directive a part of the principal's medical record and  
29 shall be deemed to have actual knowledge of the directive's contents.

30 (2) When acting under authority of a directive, a health care  
31 provider, professional person, or health care facility shall act in  
32 accordance with the provisions of the directive to the fullest extent  
33 possible, unless in the determination of the health care provider,  
34 professional person, or health care facility:

35 (a) Compliance with the provision would violate the accepted  
36 standard of care established in RCW 7.70.040;

- 1 (b) The requested treatment is not available;  
2 (c) Compliance with the provision would violate applicable law; or  
3 (d) It is an emergency situation and compliance would endanger any  
4 person's life or health.

5 (3)(a) In the case of a principal committed or detained under the  
6 involuntary treatment provisions of chapter 10.77, 70.96A, 71.05,  
7 71.09, or 71.34 RCW, those provisions of a principal's directive that,  
8 in the determination of the health care provider, professional person,  
9 or health care facility, are inconsistent with the purpose of the  
10 commitment or with any order of the court relating to the commitment  
11 are invalid during the commitment.

12 (b) Remaining provisions of a principal's directive are advisory  
13 while the principal is committed or detained.

14 The treatment provider is encouraged to follow the remaining  
15 provisions of the directive, except as provided in (a) of this  
16 subsection or subsection (2) of this section.

17 (4) In the case of a principal who is incarcerated or committed in  
18 a state or local correctional facility, provisions of the principal's  
19 directive that are inconsistent with reasonable penological objectives  
20 or administrative hearings regarding involuntary medication are invalid  
21 during the period of incarceration or commitment. In addition,  
22 treatment may be given despite refusal of the principal or the  
23 provisions of the directive: (a) For any reason under subsection (2)  
24 of this section; or (b) if, without the benefit of the specific  
25 treatment measure, there is a significant possibility that the person  
26 will harm self or others before an improvement of the person's  
27 condition occurs.

28 (5)(a) If the health care provider, professional person, or health  
29 care facility is, at the time of receiving the directive, unable or  
30 unwilling to comply with any part or parts of the directive for any  
31 reason, the health care provider, professional person, or health care  
32 facility shall promptly notify the principal and, if applicable, his or  
33 her agent and shall document the reason in the principal's medical  
34 record.

35 (b) If the health care provider, professional person, or health  
36 care facility is acting under authority of a directive and is unable to  
37 comply with any part or parts of the directive for the reasons listed  
38 in subsection (2) or (3) of this section, the health care provider,

1 professional person, or health care facility shall promptly notify the  
2 principal and if applicable, his or her agent, and shall document the  
3 reason in the principal's medical record.

4 (6) In the event that one or more parts of the directive are not  
5 followed because of one or more of the reasons set forth in subsection  
6 (2) or (4) of this section, all other parts of the directive shall be  
7 followed.

8 (7) If no provider-patient relationship has previously been  
9 established, nothing in this chapter requires the establishment of a  
10 provider-patient relationship.

11 NEW SECTION. **Sec. 16.** Where a principal consents in a directive  
12 to electroconvulsive therapy, the health care provider, professional  
13 person, or health care facility, or persons acting under the direction  
14 of the health care provider, professional person, or health care  
15 facility, shall document the therapy and the reason it was used in the  
16 principal's medical record.

17 NEW SECTION. **Sec. 17.** (1) For the purposes of this section,  
18 "provider" means a private or public agency, government entity, health  
19 care provider, professional person, health care facility, or person  
20 acting under the direction of a health care provider or professional  
21 person, health care facility, or long-term care facility.

22 (2) A provider is not subject to civil liability or sanctions for  
23 unprofessional conduct under the uniform disciplinary act, chapter  
24 18.130 RCW, when in good faith and without negligence:

25 (a) The provider provides treatment to a principal in the absence  
26 of actual knowledge of the existence of a directive, or provides  
27 treatment pursuant to a directive in the absence of actual knowledge of  
28 the revocation of the directive;

29 (b) A health care provider or mental health professional determines  
30 that the principal is or is not incapacitated for the purpose of  
31 deciding whether to proceed according to a directive, and acts upon  
32 that determination;

33 (c) The provider administers or does not administer mental health  
34 treatment according to the principal's directive in good faith reliance  
35 upon the validity of the directive and the directive is subsequently  
36 found to be invalid;



1 (d) The provider does not provide treatment according to the  
2 directive for one of the reasons authorized under section 15 of this  
3 act; or

4 (e) The provider provides treatment according to the principal's  
5 directive.

6 **PART V**

7 **Interpretive Provisions**

8 NEW SECTION. **Sec. 18.** (1) Where an incapacitated principal has  
9 executed more than one valid directive and has not revoked any of the  
10 directives:

11 (a) The directive most recently created shall be treated as the  
12 principal's mental health treatment preferences and instructions as to  
13 any inconsistent or conflicting provisions, unless provided otherwise  
14 in either document.

15 (b) Where a directive executed under this chapter is inconsistent  
16 with a directive executed under any other chapter, the most recently  
17 created directive controls as to the inconsistent provisions.

18 (2) Where an incapacitated principal has appointed more than one  
19 agent under chapter 11.94 RCW with authority to make mental health  
20 treatment decisions, RCW 11.94.010 controls.

21 (3) The treatment provider shall inquire of a principal whether the  
22 principal is subject to any court orders that would affect the  
23 implementation of his or her directive.

24 NEW SECTION. **Sec. 19.** (1) Directives validly executed before the  
25 effective date of this section shall be given full force and effect  
26 until revoked, superseded, or expired.

27 (2) A directive validly executed in another political jurisdiction  
28 is valid to the extent permitted by Washington state law.

29 NEW SECTION. **Sec. 20.** Any person with reasonable cause to believe  
30 that a directive has been created or revoked under circumstances  
31 amounting to fraud, duress, or undue influence may petition the court  
32 for appointment of a guardian for the person or to review the actions  
33 of the agent or person alleged to be involved in improper conduct under  
34 RCW 11.94.090 or 74.34.110.

1        NEW SECTION.    **Sec. 21.** The fact that a person has executed a  
2 directive does not constitute an indication of mental disorder or that  
3 the person is not capable of providing informed consent.

4        NEW SECTION.    **Sec. 22.** A person shall not be required to execute  
5 or to refrain from executing a directive, nor shall the existence of a  
6 directive be used as a criterion for insurance, as a condition for  
7 receiving mental or physical health services, or as a condition of  
8 admission to or discharge from a health care facility or long-term care  
9 facility.

10       NEW SECTION.    **Sec. 23.** No person or health care facility may use  
11 or threaten abuse, neglect, financial exploitation, or abandonment of  
12 the principal, as those terms are defined in RCW 74.34.020, to carry  
13 out the directive.

14       NEW SECTION.    **Sec. 24.** A directive does not limit any authority  
15 otherwise provided in Title 10, 70, or 71 RCW, or any other applicable  
16 state or federal laws to detain a person, take a person into custody,  
17 or to admit, retain, or treat a person in a health care facility.

18       NEW SECTION.    **Sec. 25.** (1) If a principal who is a resident of a  
19 long-term care facility is admitted to inpatient mental health  
20 treatment pursuant to his or her directive, the principal shall be  
21 allowed to be readmitted to the same long-term care facility as if his  
22 or her inpatient admission had been for a physical condition on the  
23 same basis that the principal would be readmitted under state or  
24 federal statute or rule when:

25       (a) The treating facility's professional staff determine that  
26 inpatient mental health treatment is no longer medically necessary for  
27 the resident. The determination shall be made in writing by a  
28 psychiatrist or by a mental health professional and a physician; or

29       (b) The person's consent to admission in his or her directive has  
30 expired.

31       (2)(a) If the long-term care facility does not have a bed available  
32 at the time of discharge, the treating facility may discharge the  
33 resident, in consultation with the resident and agent if any, and in

1 accordance with a medically appropriate discharge plan, to another  
2 long-term care facility.

3 (b) This section shall apply to inpatient mental health treatment  
4 admission of long-term care facility residents, regardless of whether  
5 the admission is directly from a facility, hospital emergency room, or  
6 other location.

7 (c) This section does not restrict the right of the resident to an  
8 earlier release from the inpatient treatment facility. This section  
9 does not restrict the right of a long-term care facility to initiate  
10 transfer or discharge of a resident who is readmitted pursuant to this  
11 section, provided that the facility has complied with the laws  
12 governing the transfer or discharge of a resident.

13 (3) The joint legislative audit and review committee shall conduct  
14 an evaluation of the operation and impact of this section. The  
15 committee shall report its findings to the appropriate committees of  
16 the legislature by December 1, 2004.

17 **PART VI**  
18 **The Form**

19 NEW SECTION. **Sec. 26.** The directive shall be in substantially the  
20 following form:

21 Mental Health Advance Directive

22 **NOTICE TO PERSONS**

23 **CREATING A MENTAL HEALTH ADVANCE DIRECTIVE**

24 This is an important legal document. It creates an advance directive for mental health treatment. Before signing this  
25 document you should know these important facts:

26 (1) This document is called an advance directive and allows you to make decisions in advance about your mental health  
27 treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

28 **YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.**

29 **IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.**

30 If you choose to complete and sign this document, you may still decide to leave some items blank.

31 (2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your  
32 agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with  
33 your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in  
34 your best interest. Your agent has the right to withdraw from the appointment at any time.

1 (3) The instructions you include with this advance directive and the authority you give your agent to act will only  
2 become effective under the conditions you select in this document. You may choose to limit this directive and your  
3 agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior  
4 that you specify. You may also make this directive effective immediately. No matter when you choose to make  
5 this directive effective, your treatment providers must still seek your informed consent at all times that you have  
6 capacity to give informed consent.

7 (4) You have the right to revoke this document in writing at any time you have capacity.

8 **YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE**  
9 **INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU**  
10 **WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.**

11 (5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an  
12 expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to  
13 make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke  
14 the directive.

15 (6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance  
16 directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a  
17 different process.

18 (7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

19 (8) You should be aware that there are some circumstances where your provider may not have to follow your directive.

20 (9) You should discuss any treatment decisions in your directive with your provider.

21 (10) You may ask the court to rule on the validity of your directive.

22 **PART I.**

23 **STATEMENT OF INTENT TO CREATE A**  
24 **MENTAL HEALTH ADVANCE DIRECTIVE**

25 I, . . . . . being a person with capacity, willfully and voluntarily execute this mental health advance directive  
26 so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express  
27 my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental  
28 health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

29 The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all  
30 completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she  
31 determines is in my best interest. I intend this directive to take precedence over any other directives I have previously  
32 executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either  
33 document.

34 I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I  
35 cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care  
36 provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this  
37 directive while incapacitated.

1 I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in  
2 this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider,  
3 professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect,  
4 financial exploitation, or abandonment to carry out my directive.

5 I understand that there are some circumstances where my provider may not have to follow my directive.

6 **PART II.**

7 **WHEN THIS DIRECTIVE IS EFFECTIVE**

8 *YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

9 I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

10 . . . . . Immediately upon my signing of this directive.

11 . . . . . If I become incapacitated.

12 . . . . . When the following circumstances, symptoms, or behaviors occur: . . . . .

13 . . . . .

14 . . . . .

15 **PART III.**

16 **DURATION OF THIS DIRECTIVE**

17 *YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

18 I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

19 . . . . . Remain valid and in effect for an indefinite period of time.

20 . . . . . Automatically expire . . . . . years from the date it was created.

21 **PART IV.**

22 **WHEN I MAY REVOKE THIS DIRECTIVE**

23 *YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.*

24 I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

25 . . . . . Only when I have capacity.

26 I understand that choosing this option means I may only revoke this directive if I have capacity. I further  
27 understand that if I choose this option and become incapacitated while this directive is in effect, I may receive  
28 treatment that I specify in this directive, even if I object at the time.

29 . . . . . Even if I am incapacitated.

30 I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further  
31 understand that if I choose this option and revoke this directive while I am incapacitated I may not receive  
32 treatment that I specify in this directive, even if I want the treatment.

33 **PART V.**

34 **PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS**

35 **A. Preferences and Instructions About Physician(s) to be Involved in My Treatment**

1 I would like the physician(s) named below to be involved in my treatment decisions:  
2 Dr. .... Contact information: .....  
3 Dr. .... Contact information: .....  
4 I do not wish to be treated by Dr. ....

5 **B. Preferences and Instructions About Other Providers**

6 I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would  
7 like the following treatment provider(s) to be contacted when this directive is effective:

8 Name ..... Profession ..... Contact information .....  
9 Name ..... Profession ..... Contact information .....

10 **C. Preferences and Instructions About Medications for Psychiatric Treatment** (*initial and complete all that*  
11 *apply*)

12 . . . . . I consent, and authorize my agent (if appointed) to consent, to the following  
13 medications: .....

14 . . . . . I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the  
15 following medications: .....

16 . . . . . I am willing to take the medications excluded above if my only reason for excluding them is the side effects  
17 which include .....

18 and these side effects can be eliminated by dosage adjustment or other means

19 . . . . . I am willing to try any other medication the hospital doctor recommends

20 . . . . . I am willing to try any other medications my outpatient doctor recommends

21 . . . . . I do not want to try any other medications.

22 **Medication Allergies**

23 I have allergies to, or severe side effects from, the following: .....  
24 .....

25 **Other Medication Preferences or Instructions**

26 . . . . . I have the following other preferences or instructions about medications .....  
27 .....

28 **D. Preferences and Instructions About Hospitalization and Alternatives**

29 (*initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on*)

30 . . . . . In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical  
31 conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities  
32 designed as alternatives to psychiatric hospitalizations.

33 . . . . . I would also like the interventions below to be tried before hospitalization is considered:

34 . . . . . Calling someone or having someone call me when needed.

35 Name: ..... Telephone: .....

36 . . . . . Staying overnight with someone

37 Name: ..... Telephone: .....

- 1 . . . . . Having a mental health service provider come to see me
- 2 . . . . . Going to a crisis triage center or emergency room
- 3 . . . . . Staying overnight at a crisis respite (temporary) bed
- 4 . . . . . Seeing a service provider for help with psychiatric medications
- 5 . . . . . Other, specify: .....

**Authority to Consent to Inpatient Treatment**

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for . . . . . days (*not to exceed 14 days*)

(Sign one):

. . . . . If deemed appropriate by my agent (if appointed) and treating physician

.....

(Signature)

or

. . . . . Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization) .....

.....

(Signature)

. . . . . I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

.....

(Signature)

**Hospital Preferences and Instructions**

If hospitalization is required, I prefer the following hospitals: .....

I do not consent to be admitted to the following hospitals: .....

**E. Preferences and Instructions About Preemergency**

I would like the interventions below to be tried before use of seclusion or restraint is considered

(*initial all that apply*):

. . . . . "Talk me down" one-on-one

. . . . . More medication

. . . . . Time out/privacy

. . . . . Show of authority/force

. . . . . Shift my attention to something else

. . . . . Set firm limits on my behavior

. . . . . Help me to discuss/vent feelings

. . . . . Decrease stimulation

. . . . . Offer to have neutral person settle dispute

. . . . . Other, specify .....

**F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications**

1 If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of  
2 medication, I prefer these interventions in the order I have chosen (*choose "1" for first choice, "2" for second choice,*  
3 *and so on*):

- 4 . . . . . Seclusion
- 5 . . . . . Seclusion and physical restraint (combined)
- 6 . . . . . Medication by injection
- 7 . . . . . Medication in pill or liquid form

8 In the event that my attending physician decides to use medication in response to an emergency situation after due  
9 consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of  
10 medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and  
11 instructions I express in this section regarding medication in emergency situations do not constitute consent to use of  
12 the medication for nonemergency treatment.

13 **G. Preferences and Instructions About Electroconvulsive Therapy**  
14 **(ECT or Shock Therapy)**

15 My wishes regarding electroconvulsive therapy are (*sign one*):

16 . . . . . I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive  
17 therapy

18 .....

19 (Signature)

20 . . . . . I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

21 .....

22 (Signature)

23 . . . . . I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy,  
24 but only under the following conditions: .....

25 .....

26 .....

27 (Signature)

28 **H. Preferences and Instructions About Who is Permitted to Visit**

29 If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

- 30 Name: .....
- 31 Name: .....
- 32 Name: .....

33 I understand that persons not listed above may be permitted to visit me.

34 **I. Additional Instructions About My Mental Health Care**

35 Other instructions about my mental health care: .....

36 .....

37 In case of emergency, please contact:



1 Name: ..... Address: .....  
2 Work telephone: ..... Home telephone: .....  
3 Physician: ..... Address: .....  
4 Telephone: .....

5 The following may help me to avoid a hospitalization: .....  
6 .....

7 I generally react to being hospitalized as follows: .....  
8 .....

9 Staff of the hospital or crisis unit can help me by doing the following: .....  
10 .....  
11 .....

12 **J. Refusal of Treatment**

13 I do not consent to any mental health treatment.

14 .....

15 (Signature)

16 **PART VI.**

17 **DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)**

18 *(Fill out this part only if you wish to appoint an agent or nominate a guardian.)*

19 I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent  
20 includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or  
21 procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those  
22 decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not  
23 expressed a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make  
24 the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity.  
25 Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

26 **A. Designation of an Agent**

27 I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this  
28 document and request that this person be notified immediately when this directive becomes effective:

29 Name: ..... Address: .....  
30 Work telephone: ..... Home telephone: .....  
31 Relationship: .....

32 **B. Designation of Alternate Agent**

33 If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to  
34 serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified  
35 immediately when this directive becomes effective or when my original agent is no longer my agent:

36 Name: ..... Address: .....  
37 Work telephone: ..... Home telephone: .....

1 Relationship: .....

2 **C. When My Spouse is My Agent** *(initial if desired)*

3 ..... If my spouse is my agent, that person shall remain my agent even if we become legally separated or our  
4 marriage is dissolved, unless there is a court order to the contrary or I have remarried.

5 **D. Limitations on My Agent's Authority**

6 I do not grant my agent the authority to consent on my behalf to the following:

7 .....  
8 .....

9 **E. Limitations on My Ability to Revoke this Durable Power of Attorney**

10 I choose to limit my ability to revoke this durable power of attorney as follows:

11 .....  
12 .....

13 **F. Preference as to Court-Appointed Guardian**

14 In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate**  
15 the following person **as my guardian**:

16 Name: ..... Address: .....

17 Work telephone: ..... Home telephone: .....

18 Relationship: .....

19 The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or  
20 decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as  
21 authorized by law.

22 .....

23 (Signature required if nomination is made)

24 **PART VII.**

25 **OTHER DOCUMENTS**

26 *(Initial all that apply)*

27 I have executed the following documents that include the power to make decisions regarding health care services for  
28 myself:

29 ..... Health care power of attorney (chapter 11.94 RCW)

30 ..... "Living will" (Health care directive; chapter 70.122 RCW)

31 ..... I have appointed more than one agent. I understand that the most recently appointed agent controls except as  
32 stated below:

33 .....

34 **PART VIII.**

35 **NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS**

36 *(Fill out this part only if you wish to provide nontreatment instructions.)*

1 I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that  
2 no treatment provider is required to act on them.

3 **A. Who Should Be Notified**

4 I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

5 Name: ..... Address: .....

6 Day telephone: ..... Evening telephone: .....

7 Name: ..... Address: .....

8 Day telephone: ..... Evening telephone: .....

9 **B. Preferences or Instructions About Personal Affairs**

10 I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I  
11 am admitted to a mental health treatment facility:

12 .....  
13 .....

14 **C. Additional Preferences and Instructions:**

15 .....  
16 .....  
17 .....  
18 .....

19 **PART IX.**

20 **SIGNATURE**

21 By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my  
22 informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in  
23 this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed  
24 consent under chapter 7.70 RCW.

25 Signature: ..... Date: .....

26 Printed Name: .....

27 This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her  
28 request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the  
29 Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does  
30 not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

31 (A) A person designated to make medical decisions on the principal's behalf;

32 (B) A health care provider or professional person directly involved with the provision of care to the principal at the  
33 time the directive is executed;

34 (C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care  
35 facility in which the principal is a patient or resident;

36 (D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating  
37 relationship as defined in RCW 26.50.010;

- 1 (E) An incapacitated person;
- 2 (F) A person who would benefit financially if the principal undergoes mental health treatment; or
- 3 (G) A minor.

4 Witness 1: Signature: ..... Date: .....  
5 Printed Name: .....  
6 Telephone: ..... Address: .....  
7 Witness 2: Signature: ..... Date: .....  
8 Printed Name: .....  
9 Telephone: ..... Address: .....

10 **PART X.**  
11 **RECORD OF DIRECTIVE**

12 I have given a copy of this directive to the following persons: .....  
13 .....

14 DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE  
15 THIS DIRECTIVE IN PART OR IN WHOLE

16 **PART XI.**  
17 **REVOCAION OF THIS DIRECTIVE**

18 *(Initial any that apply):*

19 ..... I am revoking the following part(s) of this directive (specify): .....  
20 .....

21 ..... I am revoking all of this directive.

22 By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by  
23 any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked  
24 provision(s).

25 Signature: ..... Date: .....  
26 Printed Name: .....

27 **DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS**  
28 **DIRECTIVE IN PART OR IN WHOLE**

29 **PART VII**  
30 **Amendatory Sections**

31 **Sec. 27.** RCW 11.94.010 and 1995 c 297 s 9 are each amended to read  
32 as follows:

33 (1) Whenever a principal designates another as his or her attorney  
34 in fact or agent, by a power of attorney in writing, and the writing  
35 contains the words "This power of attorney shall not be affected by  
36 disability of the principal," or "This power of attorney shall become

1 effective upon the disability of the principal," or similar words  
2 showing the intent of the principal that the authority conferred shall  
3 be exercisable notwithstanding the principal's disability, the  
4 authority of the attorney in fact or agent is exercisable on behalf of  
5 the principal as provided notwithstanding later disability or  
6 incapacity of the principal at law or later uncertainty as to whether  
7 the principal is dead or alive. All acts done by the attorney in fact  
8 or agent pursuant to the power during any period of disability or  
9 incompetence or uncertainty as to whether the principal is dead or  
10 alive have the same effect and inure to the benefit of and bind the  
11 principal or the principal's guardian or heirs, devisees, and personal  
12 representative as if the principal were alive, competent, and not  
13 disabled. A principal may nominate, by a durable power of attorney,  
14 the guardian or limited guardian of his or her estate or person for  
15 consideration by the court if protective proceedings for the  
16 principal's person or estate are thereafter commenced. The court shall  
17 make its appointment in accordance with the principal's most recent  
18 nomination in a durable power of attorney except for good cause or  
19 disqualification. If a guardian thereafter is appointed for the  
20 principal, the attorney in fact or agent, during the continuance of the  
21 appointment, shall account to the guardian rather than the principal.  
22 The guardian has the same power the principal would have had if the  
23 principal were not disabled or incompetent, to revoke, suspend or  
24 terminate all or any part of the power of attorney or agency.

25 (2) Persons shall place reasonable reliance on any determination of  
26 disability or incompetence as provided in the instrument that specifies  
27 the time and the circumstances under which the power of attorney  
28 document becomes effective.

29 (3)(a) A principal may authorize his or her attorney-in-fact to  
30 provide informed consent for health care decisions on the principal's  
31 behalf. If a principal has appointed more than one agent with  
32 authority to make mental health treatment decisions in accordance with  
33 a directive under chapter 71.-- RCW (sections 1 through 26 of this  
34 act), to the extent of any conflict, the most recently appointed agent  
35 shall be treated as the principal's agent for mental health treatment  
36 decisions unless provided otherwise in either appointment.

37 (b) Unless he or she is the spouse, or adult child or brother or  
38 sister of the principal, none of the following persons may act as the

1 attorney-in-fact for the principal: Any of the principal's physicians,  
2 the physicians' employees, or the owners, administrators, or employees  
3 of the health care facility or long-term care facility as defined in  
4 RCW 43.190.020 where the principal resides or receives care. Except  
5 when the principal has consented in a mental health advance directive  
6 executed under chapter 71.-- RCW (sections 1 through 26 of this act) to  
7 inpatient admission or electroconvulsive therapy, this authorization is  
8 subject to the same limitations as those that apply to a guardian under  
9 RCW 11.92.043(5) (a) through (c).

10 NEW SECTION. Sec. 28. A new section is added to chapter 11.94 RCW  
11 to read as follows:

12 No person appointed by a principal as an agent to make mental  
13 health treatment decisions pursuant to a mental health advance  
14 directive under chapter 71.-- RCW (sections 1 through 26 of this act)  
15 shall be compensated for the performance of his or her duties as an  
16 agent to make mental health treatment decisions. This section does not  
17 prohibit an agent from receiving reimbursement for reasonable expenses  
18 incurred in the performance of his or her duties under chapter 71.--  
19 RCW (sections 1 through 26 of this act).

20 **Sec. 29.** RCW 7.70.065 and 1987 c 162 s 1 are each amended to read  
21 as follows:

22 (1) Informed consent for health care for a patient who is not  
23 competent, as defined in RCW 11.88.010(1)((~~b~~)) (e), to consent may be  
24 obtained from a person authorized to consent on behalf of such patient.  
25 Persons authorized to provide informed consent to health care on behalf  
26 of a patient who is not competent to consent shall be a member of one  
27 of the following classes of persons in the following order of priority:

- 28 (a) The appointed guardian of the patient, if any;  
29 (b) The individual, if any, to whom the patient has given a durable  
30 power of attorney that encompasses the authority to make health care  
31 decisions;  
32 (c) The patient's spouse;  
33 (d) Children of the patient who are at least eighteen years of age;  
34 (e) Parents of the patient; and  
35 (f) Adult brothers and sisters of the patient.

1 (2) If the physician seeking informed consent for proposed health  
2 care of the patient who is not competent to consent makes reasonable  
3 efforts to locate and secure authorization from a competent person in  
4 the first or succeeding class and finds no such person available,  
5 authorization may be given by any person in the next class in the order  
6 of descending priority. However, no person under this section may  
7 provide informed consent to health care:

8 (a) If a person of higher priority under this section has refused  
9 to give such authorization; or

10 (b) If there are two or more individuals in the same class and the  
11 decision is not unanimous among all available members of that class.

12 (3) Before any person authorized to provide informed consent on  
13 behalf of a patient not competent to consent exercises that authority,  
14 the person must first determine in good faith that that patient, if  
15 competent, would consent to the proposed health care. If such a  
16 determination cannot be made, the decision to consent to the proposed  
17 health care may be made only after determining that the proposed health  
18 care is in the patient's best interests.

19 NEW SECTION. **Sec. 30.** A new section is added to chapter 7.70 RCW  
20 to read as follows:

21 Consent to treatment or admission contained in a validly executed  
22 mental health advance directive constitutes informed consent for  
23 purposes of this chapter.

24 NEW SECTION. **Sec. 31.** A new section is added to chapter 9A.60 RCW  
25 to read as follows:

26 (1) For purposes of this section "mental health advance directive"  
27 means a written document that is a "mental health advance directive" as  
28 defined in section 2 of this act.

29 (2) A person is guilty of fraudulent creation or revocation of a  
30 mental health advance directive if he or she knowingly:

31 (a) Makes, completes, alters, or revokes the mental health advance  
32 directive of another without the principal's consent;

33 (b) Utters, offers, or puts off as true a mental health advance  
34 directive that he or she knows to be forged; or

35 (c) Obtains or prevents the signature of a principal or witness to  
36 a mental health advance directive by deception or duress.

1 (3) Fraudulent creation or revocation of a mental health advance  
2 directive is a class C felony.

3 **Sec. 32.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c  
4 290 s 2, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133  
5 s 4 are each reenacted and amended to read as follows:

6 TABLE 2  
7 CRIMES INCLUDED WITHIN  
8 EACH SERIOUSNESS LEVEL

9	XVI	Aggravated Murder 1 (RCW
10		10.95.020)
11	XV	Homicide by abuse (RCW 9A.32.055)
12		Malicious explosion 1 (RCW
13		70.74.280(1))
14		Murder 1 (RCW 9A.32.030)
15	XIV	Murder 2 (RCW 9A.32.050)
16	XIII	Malicious explosion 2 (RCW
17		70.74.280(2))
18		Malicious placement of an explosive 1
19		(RCW 70.74.270(1))
20	XII	Assault 1 (RCW 9A.36.011)
21		Assault of a Child 1 (RCW 9A.36.120)
22		Malicious placement of an imitation
23		device 1 (RCW 70.74.272(1)(a))
24		Rape 1 (RCW 9A.44.040)
25		Rape of a Child 1 (RCW 9A.44.073)
26	XI	Manslaughter 1 (RCW 9A.32.060)
27		Rape 2 (RCW 9A.44.050)
28		Rape of a Child 2 (RCW 9A.44.076)
29	X	Child Molestation 1 (RCW 9A.44.083)
30		Indecent Liberties (with forcible
31		compulsion) (RCW
32		9A.44.100(1)(a))
33		Kidnapping 1 (RCW 9A.40.020)
34		Leading Organized Crime (RCW
35		9A.82.060(1)(a))



1 Malicious explosion 3 (RCW  
2 70.74.280(3))  
3 Manufacture of methamphetamine  
4 (RCW 69.50.401(a)(1)(ii))  
5 Over 18 and deliver heroin,  
6 methamphetamine, a narcotic  
7 from Schedule I or II, or  
8 flunitrazepam from Schedule IV  
9 to someone under 18 (RCW  
10 69.50.406)  
11 Sexually Violent Predator Escape  
12 (RCW 9A.76.115)  
13 IX Assault of a Child 2 (RCW 9A.36.130)  
14 Controlled Substance Homicide (RCW  
15 69.50.415)  
16 Explosive devices prohibited (RCW  
17 70.74.180)  
18 Hit and Run--Death (RCW  
19 46.52.020(4)(a))  
20 Homicide by Watercraft, by being  
21 under the influence of intoxicating  
22 liquor or any drug (RCW  
23 79A.60.050)  
24 Inciting Criminal Profiteering (RCW  
25 9A.82.060(1)(b))  
26 Malicious placement of an explosive 2  
27 (RCW 70.74.270(2))  
28 Over 18 and deliver narcotic from  
29 Schedule III, IV, or V or a  
30 nonnarcotic, except flunitrazepam  
31 or methamphetamine, from  
32 Schedule I-V to someone under 18  
33 and 3 years junior (RCW  
34 69.50.406)  
35 Robbery 1 (RCW 9A.56.200)  
36 Sexual Exploitation (RCW 9.68A.040)

1 Vehicular Homicide, by being under  
2 the influence of intoxicating  
3 liquor or any drug (RCW  
4 46.61.520)

5 VIII Arson 1 (RCW 9A.48.020)

6 Deliver or possess with intent to  
7 deliver methamphetamine (RCW  
8 69.50.401(a)(1)(ii))

9 Homicide by Watercraft, by the  
10 operation of any vessel in a  
11 reckless manner (RCW  
12 79A.60.050)

13 Manslaughter 2 (RCW 9A.32.070)

14 Manufacture, deliver, or possess with  
15 intent to deliver amphetamine  
16 (RCW 69.50.401(a)(1)(ii))

17 Manufacture, deliver, or possess with  
18 intent to deliver heroin or cocaine  
19 (when the offender has a criminal  
20 history in this state or any other  
21 state that includes a sex offense or  
22 serious violent offense or the  
23 Washington equivalent) (RCW  
24 69.50.401(a)(1)(i))

25 Possession of Ephedrine or any of its  
26 Salts or Isomers or Salts of  
27 Isomers, Pseudoephedrine or any  
28 of its Salts or Isomers or Salts of  
29 Isomers, Pressurized Ammonia  
30 Gas, or Pressurized Ammonia Gas  
31 Solution with intent to  
32 manufacture methamphetamine  
33 (RCW 69.50.440)

34 Promoting Prostitution 1 (RCW  
35 9A.88.070)

1 Selling for profit (controlled or  
2 counterfeit) any controlled  
3 substance (RCW 69.50.410)  
4 Theft of Ammonia (RCW 69.55.010)  
5 Vehicular Homicide, by the operation  
6 of any vehicle in a reckless  
7 manner (RCW 46.61.520)  
8 VII Burglary 1 (RCW 9A.52.020)  
9 Child Molestation 2 (RCW 9A.44.086)  
10 Civil Disorder Training (RCW  
11 9A.48.120)  
12 Dealing in depictions of minor  
13 engaged in sexually explicit  
14 conduct (RCW 9.68A.050)  
15 Drive-by Shooting (RCW 9A.36.045)  
16 Homicide by Watercraft, by disregard  
17 for the safety of others (RCW  
18 79A.60.050)  
19 Indecent Liberties (without forcible  
20 compulsion) (RCW 9A.44.100(1)  
21 (b) and (c))  
22 Introducing Contraband 1 (RCW  
23 9A.76.140)  
24 Involving a minor in drug dealing  
25 (RCW 69.50.401(f))  
26 Malicious placement of an explosive 3  
27 (RCW 70.74.270(3))  
28 Manufacture, deliver, or possess with  
29 intent to deliver heroin or cocaine  
30 (except when the offender has a  
31 criminal history in this state or  
32 any other state that includes a sex  
33 offense or serious violent offense  
34 or the Washington equivalent)  
35 (RCW 69.50.401(a)(1)(i))

1 Sending, bringing into state depictions  
2 of minor engaged in sexually  
3 explicit conduct (RCW  
4 9.68A.060)  
5 Unlawful Possession of a Firearm in  
6 the first degree (RCW  
7 9.41.040(1)(a))  
8 Use of a Machine Gun in Commission  
9 of a Felony (RCW 9.41.225)  
10 Vehicular Homicide, by disregard for  
11 the safety of others (RCW  
12 46.61.520)  
13 VI Bail Jumping with Murder 1 (RCW  
14 9A.76.170(3)(a))  
15 Bribery (RCW 9A.68.010)  
16 Incest 1 (RCW 9A.64.020(1))  
17 Intimidating a Judge (RCW  
18 9A.72.160)  
19 Intimidating a Juror/Witness (RCW  
20 9A.72.110, 9A.72.130)  
21 Malicious placement of an imitation  
22 device 2 (RCW 70.74.272(1)(b))  
23 Manufacture, deliver, or possess with  
24 intent to deliver narcotics from  
25 Schedule I or II (except heroin or  
26 cocaine) or flunitrazepam from  
27 Schedule IV (RCW  
28 69.50.401(a)(1)(i))  
29 Rape of a Child 3 (RCW 9A.44.079)  
30 Theft of a Firearm (RCW 9A.56.300)  
31 Unlawful Storage of Ammonia (RCW  
32 69.55.020)  
33 V Abandonment of dependent person 1  
34 (RCW 9A.42.060)  
35 Advancing money or property for  
36 extortionate extension of credit  
37 (RCW 9A.82.030)

1 Bail Jumping with class A Felony  
2 (RCW 9A.76.170(3)(b))  
3 Child Molestation 3 (RCW 9A.44.089)  
4 Criminal Mistreatment 1 (RCW  
5 9A.42.020)  
6 Custodial Sexual Misconduct 1 (RCW  
7 9A.44.160)  
8 Delivery of imitation controlled  
9 substance by person eighteen or  
10 over to person under eighteen  
11 (RCW 69.52.030(2))  
12 Domestic Violence Court Order  
13 Violation (RCW 10.99.040,  
14 10.99.050, 26.09.300, 26.10.220,  
15 26.26.138, 26.50.110, 26.52.070,  
16 or 74.34.145)  
17 Extortion 1 (RCW 9A.56.120)  
18 Extortionate Extension of Credit  
19 (RCW 9A.82.020)  
20 Extortionate Means to Collect  
21 Extensions of Credit (RCW  
22 9A.82.040)  
23 Incest 2 (RCW 9A.64.020(2))  
24 Kidnapping 2 (RCW 9A.40.030)  
25 Perjury 1 (RCW 9A.72.020)  
26 Persistent prison misbehavior (RCW  
27 9.94.070)  
28 Possession of a Stolen Firearm (RCW  
29 9A.56.310)  
30 Rape 3 (RCW 9A.44.060)  
31 Rendering Criminal Assistance 1  
32 (RCW 9A.76.070)  
33 Sexual Misconduct with a Minor 1  
34 (RCW 9A.44.093)  
35 Sexually Violating Human Remains  
36 (RCW 9A.44.105)  
37 Stalking (RCW 9A.46.110)

1 Taking Motor Vehicle Without  
2 Permission 1 (RCW  
3 9A.56.070(1))  
4 IV Arson 2 (RCW 9A.48.030)  
5 Assault 2 (RCW 9A.36.021)  
6 Assault by Watercraft (RCW  
7 79A.60.060)  
8 Bribing a Witness/Bribe Received by  
9 Witness (RCW 9A.72.090,  
10 9A.72.100)  
11 Cheating 1 (RCW 9.46.1961)  
12 Commercial Bribery (RCW  
13 9A.68.060)  
14 Counterfeiting (RCW 9.16.035(4))  
15 Endangerment with a Controlled  
16 Substance (RCW 9A.42.100)  
17 Escape 1 (RCW 9A.76.110)  
18 Hit and Run--Injury (RCW  
19 46.52.020(4)(b))  
20 Hit and Run with Vessel--Injury  
21 Accident (RCW 79A.60.200(3))  
22 Identity Theft 1 (RCW 9.35.020(2)(a))  
23 Indecent Exposure to Person Under  
24 Age Fourteen (subsequent sex  
25 offense) (RCW 9A.88.010)  
26 Influencing Outcome of Sporting  
27 Event (RCW 9A.82.070)  
28 Knowingly Trafficking in Stolen  
29 Property (RCW 9A.82.050(2))  
30 Malicious Harassment (RCW  
31 9A.36.080)

1 Manufacture, deliver, or possess with  
2 intent to deliver narcotics from  
3 Schedule III, IV, or V or  
4 nonnarcotics from Schedule I-V  
5 (except marijuana, amphetamine,  
6 methamphetamines, or  
7 flunitrazepam) (RCW  
8 69.50.401(a)(1) (iii) through (v))  
9 Residential Burglary (RCW  
10 9A.52.025)  
11 Robbery 2 (RCW 9A.56.210)  
12 Theft of Livestock 1 (RCW 9A.56.080)  
13 Threats to Bomb (RCW 9.61.160)  
14 Use of Proceeds of Criminal  
15 Profiteering (RCW 9A.82.080 (1)  
16 and (2))  
17 Vehicular Assault, by being under the  
18 influence of intoxicating liquor or  
19 any drug, or by the operation or  
20 driving of a vehicle in a reckless  
21 manner (RCW 46.61.522)  
22 Willful Failure to Return from  
23 Furlough (RCW 72.66.060)  
24 III Abandonment of dependent person 2  
25 (RCW 9A.42.070)  
26 Assault 3 (RCW 9A.36.031)  
27 Assault of a Child 3 (RCW 9A.36.140)  
28 Bail Jumping with class B or C Felony  
29 (RCW 9A.76.170(3)(c))  
30 Burglary 2 (RCW 9A.52.030)  
31 Communication with a Minor for  
32 Immoral Purposes (RCW  
33 9.68A.090)  
34 Criminal Gang Intimidation (RCW  
35 9A.46.120)  
36 Criminal Mistreatment 2 (RCW  
37 9A.42.030)

1 Custodial Assault (RCW 9A.36.100)  
2 Delivery of a material in lieu of a  
3 controlled substance (RCW  
4 69.50.401(c))  
5 Escape 2 (RCW 9A.76.120)  
6 Extortion 2 (RCW 9A.56.130)  
7 Harassment (RCW 9A.46.020)  
8 Intimidating a Public Servant (RCW  
9 9A.76.180)  
10 Introducing Contraband 2 (RCW  
11 9A.76.150)  
12 Maintaining a Dwelling or Place for  
13 Controlled Substances (RCW  
14 69.50.402(a)(6))  
15 Malicious Injury to Railroad Property  
16 (RCW 81.60.070)  
17 Manufacture, deliver, or possess with  
18 intent to deliver marijuana (RCW  
19 69.50.401(a)(1)(iii))  
20 Manufacture, distribute, or possess  
21 with intent to distribute an  
22 imitation controlled substance  
23 (RCW 69.52.030(1))  
24 Patronizing a Juvenile Prostitute  
25 (RCW 9.68A.100)  
26 Perjury 2 (RCW 9A.72.030)  
27 Possession of Incendiary Device (RCW  
28 9.40.120)  
29 Possession of Machine Gun or Short-  
30 Barreled Shotgun or Rifle (RCW  
31 9.41.190)  
32 Promoting Prostitution 2 (RCW  
33 9A.88.080)  
34 Recklessly Trafficking in Stolen  
35 Property (RCW 9A.82.050(1))  
36 Securities Act violation (RCW  
37 21.20.400)



1 Tampering with a Witness (RCW  
2 9A.72.120)  
3 Telephone Harassment (subsequent  
4 conviction or threat of death)  
5 (RCW 9.61.230)  
6 Theft of Livestock 2 (RCW 9A.56.080)  
7 Unlawful Imprisonment (RCW  
8 9A.40.040)  
9 Unlawful possession of firearm in the  
10 second degree (RCW  
11 9.41.040(1)(b))  
12 Unlawful Use of Building for Drug  
13 Purposes (RCW 69.53.010)  
14 Vehicular Assault, by the operation or  
15 driving of a vehicle with disregard  
16 for the safety of others (RCW  
17 46.61.522)  
18 Willful Failure to Return from Work  
19 Release (RCW 72.65.070)  
20 II Computer Trespass 1 (RCW  
21 9A.52.110)  
22 Counterfeiting (RCW 9.16.035(3))  
23 Create, deliver, or possess a counterfeit  
24 controlled substance (RCW  
25 69.50.401(b))  
26 Escape from Community Custody  
27 (RCW 72.09.310)  
28 Health Care False Claims (RCW  
29 48.80.030)  
30 Identity Theft 2 (RCW 9.35.020(2)(b))  
31 Improperly Obtaining Financial  
32 Information (RCW 9.35.010)  
33 Malicious Mischief 1 (RCW  
34 9A.48.070)

1 Possession of controlled substance that  
2 is either heroin or narcotics from  
3 Schedule I or II or flunitrazepam  
4 from Schedule IV (RCW  
5 69.50.401(d))  
6 Possession of phencyclidine (PCP)  
7 (RCW 69.50.401(d))  
8 Possession of Stolen Property 1 (RCW  
9 9A.56.150)  
10 Theft 1 (RCW 9A.56.030)  
11 Theft of Rental, Leased, or Lease-  
12 purchased Property (valued at one  
13 thousand five hundred dollars or  
14 more) (RCW 9A.56.096(4))  
15 Trafficking in Insurance Claims (RCW  
16 48.30A.015)  
17 Unlawful Practice of Law (RCW  
18 2.48.180)  
19 Unlicensed Practice of a Profession or  
20 Business (RCW 18.130.190(7))  
21 I Attempting to Elude a Pursuing Police  
22 Vehicle (RCW 46.61.024)  
23 False Verification for Welfare (RCW  
24 74.08.055)  
25 Forged Prescription (RCW 69.41.020)  
26 Forged Prescription for a Controlled  
27 Substance (RCW 69.50.403)  
28 Forgery (RCW 9A.60.020)  
29 Fraudulent Creation or Revocation of a  
30 Mental Health Advance Directive  
31 (section 31 of this act)  
32 Malicious Mischief 2 (RCW  
33 9A.48.080)

1 Possess Controlled Substance that is a  
 2 Narcotic from Schedule III, IV, or  
 3 V or Non-narcotic from Schedule  
 4 I-V (except phencyclidine or  
 5 flunitrazepam) (RCW  
 6 69.50.401(d))  
 7 Possession of Stolen Property 2 (RCW  
 8 9A.56.160)  
 9 Reckless Burning 1 (RCW 9A.48.040)  
 10 Taking Motor Vehicle Without  
 11 Permission 2 (RCW  
 12 9A.56.070(2))  
 13 Theft 2 (RCW 9A.56.040)  
 14 Theft of Rental, Leased, or Lease-  
 15 purchased Property (valued at two  
 16 hundred fifty dollars or more but  
 17 less than one thousand five  
 18 hundred dollars) (RCW  
 19 9A.56.096(4))  
 20 Unlawful Issuance of Checks or Drafts  
 21 (RCW 9A.56.060)  
 22 Unlawful Use of Food Stamps (RCW  
 23 9.91.140 (2) and (3))  
 24 Vehicle Prowl 1 (RCW 9A.52.095)

25 **Sec. 33.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c  
 26 290 s 7, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133  
 27 s 4 are each reenacted and amended to read as follows:

28 TABLE 2  
 29 CRIMES INCLUDED WITHIN  
 30 EACH SERIOUSNESS LEVEL

31	XVI	Aggravated Murder 1 (RCW
32		10.95.020)
33	XV	Homicide by abuse (RCW 9A.32.055)
34		Malicious explosion 1 (RCW
35		70.74.280(1))

1 Murder 1 (RCW 9A.32.030)  
2 XIV Murder 2 (RCW 9A.32.050)  
3 XIII Malicious explosion 2 (RCW  
4 70.74.280(2))  
5 Malicious placement of an explosive 1  
6 (RCW 70.74.270(1))  
7 XII Assault 1 (RCW 9A.36.011)  
8 Assault of a Child 1 (RCW 9A.36.120)  
9 Malicious placement of an imitation  
10 device 1 (RCW 70.74.272(1)(a))  
11 Rape 1 (RCW 9A.44.040)  
12 Rape of a Child 1 (RCW 9A.44.073)  
13 XI Manslaughter 1 (RCW 9A.32.060)  
14 Rape 2 (RCW 9A.44.050)  
15 Rape of a Child 2 (RCW 9A.44.076)  
16 X Child Molestation 1 (RCW 9A.44.083)  
17 Indecent Liberties (with forcible  
18 compulsion) (RCW  
19 9A.44.100(1)(a))  
20 Kidnapping 1 (RCW 9A.40.020)  
21 Leading Organized Crime (RCW  
22 9A.82.060(1)(a))  
23 Malicious explosion 3 (RCW  
24 70.74.280(3))  
25 Sexually Violent Predator Escape  
26 (RCW 9A.76.115)  
27 IX Assault of a Child 2 (RCW 9A.36.130)  
28 Explosive devices prohibited (RCW  
29 70.74.180)  
30 Hit and Run--Death (RCW  
31 46.52.020(4)(a))  
32 Homicide by Watercraft, by being  
33 under the influence of intoxicating  
34 liquor or any drug (RCW  
35 79A.60.050)  
36 Inciting Criminal Profiteering (RCW  
37 9A.82.060(1)(b))

1 Malicious placement of an explosive 2  
2 (RCW 70.74.270(2))  
3 Robbery 1 (RCW 9A.56.200)  
4 Sexual Exploitation (RCW 9.68A.040)  
5 Vehicular Homicide, by being under  
6 the influence of intoxicating  
7 liquor or any drug (RCW  
8 46.61.520)  
9 VIII Arson 1 (RCW 9A.48.020)  
10 Homicide by Watercraft, by the  
11 operation of any vessel in a  
12 reckless manner (RCW  
13 79A.60.050)  
14 Manslaughter 2 (RCW 9A.32.070)  
15 Promoting Prostitution 1 (RCW  
16 9A.88.070)  
17 Theft of Ammonia (RCW 69.55.010)  
18 Vehicular Homicide, by the operation  
19 of any vehicle in a reckless  
20 manner (RCW 46.61.520)  
21 VII Burglary 1 (RCW 9A.52.020)  
22 Child Molestation 2 (RCW 9A.44.086)  
23 Civil Disorder Training (RCW  
24 9A.48.120)  
25 Dealing in depictions of minor  
26 engaged in sexually explicit  
27 conduct (RCW 9.68A.050)  
28 Drive-by Shooting (RCW 9A.36.045)  
29 Homicide by Watercraft, by disregard  
30 for the safety of others (RCW  
31 79A.60.050)  
32 Indecent Liberties (without forcible  
33 compulsion) (RCW 9A.44.100(1)  
34 (b) and (c))  
35 Introducing Contraband 1 (RCW  
36 9A.76.140)

1 Malicious placement of an explosive 3  
2 (RCW 70.74.270(3))  
3 Sending, bringing into state depictions  
4 of minor engaged in sexually  
5 explicit conduct (RCW  
6 9.68A.060)  
7 Unlawful Possession of a Firearm in  
8 the first degree (RCW  
9 9.41.040(1)(a))  
10 Use of a Machine Gun in Commission  
11 of a Felony (RCW 9.41.225)  
12 Vehicular Homicide, by disregard for  
13 the safety of others (RCW  
14 46.61.520)  
15 VI Bail Jumping with Murder 1 (RCW  
16 9A.76.170(3)(a))  
17 Bribery (RCW 9A.68.010)  
18 Incest 1 (RCW 9A.64.020(1))  
19 Intimidating a Judge (RCW  
20 9A.72.160)  
21 Intimidating a Juror/Witness (RCW  
22 9A.72.110, 9A.72.130)  
23 Malicious placement of an imitation  
24 device 2 (RCW 70.74.272(1)(b))  
25 Rape of a Child 3 (RCW 9A.44.079)  
26 Theft of a Firearm (RCW 9A.56.300)  
27 Unlawful Storage of Ammonia (RCW  
28 69.55.020)  
29 V Abandonment of dependent person 1  
30 (RCW 9A.42.060)  
31 Advancing money or property for  
32 extortionate extension of credit  
33 (RCW 9A.82.030)  
34 Bail Jumping with class A Felony  
35 (RCW 9A.76.170(3)(b))  
36 Child Molestation 3 (RCW 9A.44.089)

1 Criminal Mistreatment 1 (RCW  
2 9A.42.020)  
3 Custodial Sexual Misconduct 1 (RCW  
4 9A.44.160)  
5 Domestic Violence Court Order  
6 Violation (RCW 10.99.040,  
7 10.99.050, 26.09.300, 26.10.220,  
8 26.26.138, 26.50.110, 26.52.070,  
9 or 74.34.145)  
10 Extortion 1 (RCW 9A.56.120)  
11 Extortionate Extension of Credit  
12 (RCW 9A.82.020)  
13 Extortionate Means to Collect  
14 Extensions of Credit (RCW  
15 9A.82.040)  
16 Incest 2 (RCW 9A.64.020(2))  
17 Kidnapping 2 (RCW 9A.40.030)  
18 Perjury 1 (RCW 9A.72.020)  
19 Persistent prison misbehavior (RCW  
20 9.94.070)  
21 Possession of a Stolen Firearm (RCW  
22 9A.56.310)  
23 Rape 3 (RCW 9A.44.060)  
24 Rendering Criminal Assistance 1  
25 (RCW 9A.76.070)  
26 Sexual Misconduct with a Minor 1  
27 (RCW 9A.44.093)  
28 Sexually Violating Human Remains  
29 (RCW 9A.44.105)  
30 Stalking (RCW 9A.46.110)  
31 Taking Motor Vehicle Without  
32 Permission 1 (RCW  
33 9A.56.070(1))  
34 IV Arson 2 (RCW 9A.48.030)  
35 Assault 2 (RCW 9A.36.021)  
36 Assault by Watercraft (RCW  
37 79A.60.060)

1 Bribing a Witness/Bribe Received by  
2 Witness (RCW 9A.72.090,  
3 9A.72.100)  
4 Cheating 1 (RCW 9A.46.1961)  
5 Commercial Bribery (RCW  
6 9A.68.060)  
7 Counterfeiting (RCW 9.16.035(4))  
8 Endangerment with a Controlled  
9 Substance (RCW 9A.42.100)  
10 Escape 1 (RCW 9A.76.110)  
11 Hit and Run--Injury (RCW  
12 46.52.020(4)(b))  
13 Hit and Run with Vessel--Injury  
14 Accident (RCW 79A.60.200(3))  
15 Identity Theft 1 (RCW 9.35.020(2)(a))  
16 Indecent Exposure to Person Under  
17 Age Fourteen (subsequent sex  
18 offense) (RCW 9A.88.010)  
19 Influencing Outcome of Sporting  
20 Event (RCW 9A.82.070)  
21 Knowingly Trafficking in Stolen  
22 Property (RCW 9A.82.050(2))  
23 Malicious Harassment (RCW  
24 9A.36.080)  
25 Residential Burglary (RCW  
26 9A.52.025)  
27 Robbery 2 (RCW 9A.56.210)  
28 Theft of Livestock 1 (RCW 9A.56.080)  
29 Threats to Bomb (RCW 9.61.160)  
30 Use of Proceeds of Criminal  
31 Profiteering (RCW 9A.82.080 (1)  
32 and (2))  
33 Vehicular Assault, by being under the  
34 influence of intoxicating liquor or  
35 any drug, or by the operation or  
36 driving of a vehicle in a reckless  
37 manner (RCW 46.61.522)



1 Willful Failure to Return from  
2 Furlough (RCW 72.66.060)  
3 III Abandonment of dependent person 2  
4 (RCW 9A.42.070)  
5 Assault 3 (RCW 9A.36.031)  
6 Assault of a Child 3 (RCW 9A.36.140)  
7 Bail Jumping with class B or C Felony  
8 (RCW 9A.76.170(3)(c))  
9 Burglary 2 (RCW 9A.52.030)  
10 Communication with a Minor for  
11 Immoral Purposes (RCW  
12 9.68A.090)  
13 Criminal Gang Intimidation (RCW  
14 9A.46.120)  
15 Criminal Mistreatment 2 (RCW  
16 9A.42.030)  
17 Custodial Assault (RCW 9A.36.100)  
18 Escape 2 (RCW 9A.76.120)  
19 Extortion 2 (RCW 9A.56.130)  
20 Harassment (RCW 9A.46.020)  
21 Intimidating a Public Servant (RCW  
22 9A.76.180)  
23 Introducing Contraband 2 (RCW  
24 9A.76.150)  
25 Malicious Injury to Railroad Property  
26 (RCW 81.60.070)  
27 Patronizing a Juvenile Prostitute  
28 (RCW 9.68A.100)  
29 Perjury 2 (RCW 9A.72.030)  
30 Possession of Incendiary Device (RCW  
31 9.40.120)  
32 Possession of Machine Gun or Short-  
33 Barreled Shotgun or Rifle (RCW  
34 9.41.190)  
35 Promoting Prostitution 2 (RCW  
36 9A.88.080)

1 Recklessly Trafficking in Stolen  
2 Property (RCW 9A.82.050(1))  
3 Securities Act violation (RCW  
4 21.20.400)  
5 Tampering with a Witness (RCW  
6 9A.72.120)  
7 Telephone Harassment (subsequent  
8 conviction or threat of death)  
9 (RCW 9.61.230)  
10 Theft of Livestock 2 (RCW 9A.56.080)  
11 Unlawful Imprisonment (RCW  
12 9A.40.040)  
13 Unlawful possession of firearm in the  
14 second degree (RCW  
15 9.41.040(1)(b))  
16 Vehicular Assault, by the operation or  
17 driving of a vehicle with disregard  
18 for the safety of others (RCW  
19 46.61.522)  
20 Willful Failure to Return from Work  
21 Release (RCW 72.65.070)  
22 II Computer Trespass 1 (RCW  
23 9A.52.110)  
24 Counterfeiting (RCW 9.16.035(3))  
25 Escape from Community Custody  
26 (RCW 72.09.310)  
27 Health Care False Claims (RCW  
28 48.80.030)  
29 Identity Theft 2 (RCW 9.35.020(2)(b))  
30 Improperly Obtaining Financial  
31 Information (RCW 9.35.010)  
32 Malicious Mischief 1 (RCW  
33 9A.48.070)  
34 Possession of Stolen Property 1 (RCW  
35 9A.56.150)  
36 Theft 1 (RCW 9A.56.030)

1 Theft of Rental, Leased, or Lease-  
2 purchased Property (valued at one  
3 thousand five hundred dollars or  
4 more) (RCW 9A.56.096(4))  
5 Trafficking in Insurance Claims (RCW  
6 48.30A.015)  
7 Unlawful Practice of Law (RCW  
8 2.48.180)  
9 Unlicensed Practice of a Profession or  
10 Business (RCW 18.130.190(7))  
11 I Attempting to Elude a Pursuing Police  
12 Vehicle (RCW 46.61.024)  
13 False Verification for Welfare (RCW  
14 74.08.055)  
15 Forgery (RCW 9A.60.020)  
16 Fraudulent Creation or Revocation of a  
17 Mental Health Advance Directive  
18 (section 31 of this act)  
19 Malicious Mischief 2 (RCW  
20 9A.48.080)  
21 Possession of Stolen Property 2 (RCW  
22 9A.56.160)  
23 Reckless Burning 1 (RCW 9A.48.040)  
24 Taking Motor Vehicle Without  
25 Permission 2 (RCW  
26 9A.56.070(2))  
27 Theft 2 (RCW 9A.56.040)  
28 Theft of Rental, Leased, or Lease-  
29 purchased Property (valued at two  
30 hundred fifty dollars or more but  
31 less than one thousand five  
32 hundred dollars) (RCW  
33 9A.56.096(4))  
34 Unlawful Issuance of Checks or Drafts  
35 (RCW 9A.56.060)  
36 Unlawful Use of Food Stamps (RCW  
37 9.91.140 (2) and (3))

**PART VIII**

**Miscellaneous Provisions**

NEW SECTION. **Sec. 34.** Sections 1 through 26 of this act constitute a new chapter in Title 71 RCW.

NEW SECTION. **Sec. 35.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 36.** Section 32 of this act expires July 1, 2004.

NEW SECTION. **Sec. 37.** Section 33 of this act takes effect July 1, 2004.

NEW SECTION. **Sec. 38.** Part headings used in this act are not any part of the law.

Passed by the Senate March 10, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.