

**SSB 5178 - S AMD 440**  
By Senator Cleveland

**ADOPTED 03/09/2021**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 43.06  
4 RCW to read as follows:

5 (1)(a) If when declaring or amending a statewide state of  
6 emergency pursuant to RCW 43.06.010, the governor determines that the  
7 emergency demands immediate action by hospitals to prevent critical  
8 health system failures and ensure hospitals' ability to work with  
9 emergency management in responding to the emergency, the governor  
10 shall, either simultaneously or within five days of that  
11 determination, specify within the emergency order or amended  
12 emergency order which of the following health care related statutes  
13 and substantially equivalent regulations shall be waived or suspended  
14 based on the nature of the declared emergency:

15 (i) RCW 70.38.105(4) (a), (e), and (h);

16 (ii) RCW 70.41.110, the following language only: "premises and";

17 (iii) RCW 70.41.230;

18 (iv) RCW 70.41.090 (3), (4), and (5);

19 (v) RCW 18.64.043(1), the following language only: "of location,  
20 which shall entitle the owner to operate such pharmacy at the  
21 location specified, or such other temporary location as the secretary  
22 may approve,";

23 (vi) RCW 18.64.043(2) (a), the following language only: "of  
24 location";

25 (vii) RCW 18.64.043(3), the following language only: "and to keep  
26 the license of location or the renewal thereof properly exhibited in  
27 said pharmacy.";

28 (viii) RCW 43.70.280(2), the following language only: "Such  
29 extension, reduction, or other modification of a licensing,  
30 certification, or registration period shall be by rule or regulation  
31 of the department of health adopted in accordance with the provisions  
32 of chapter 34.05 RCW. Such rules and regulations may provide a method

1 for imposing and collecting such additional proportional fee as may  
2 be required for the extended or modified period."; and

3 (ix) RCW 18.360.010(11), the following language only: "physically  
4 present and is" and "in the facility. The health care practitioner  
5 does not need to be present during procedures to withdraw blood, but  
6 must be immediately available."

7 (b) Hospitals that rely on waiver or suspension under (a) of this  
8 subsection shall notify the department within 14 days of initiating  
9 such reliance.

10 (c) Nothing in this section prevents the governor from waving or  
11 suspending any statutes and substantially equivalent regulations  
12 outside the time frames established in this section. Additionally,  
13 the governor may waive or suspend any additional statutes, without  
14 limitation, as the governor deems necessary to address the emergency.

15 (2) Waivers and suspensions in subsection (1) of this section do  
16 not apply except to projects undertaken to provide or respond to  
17 surge capacity, including temporary increases in bed capacity, during  
18 the governor's declaration of a statewide state of emergency. Such  
19 projects and increases in bed capacity must comply with these  
20 statutory and regulatory provisions after the termination of the  
21 state of emergency."

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22 On page 1, line 1 of the title, after "establishing" strike the  
23 remainder of the title and insert "timely considerations of waivers  
24 of select state health care laws to enable timely response by the  
25 health care system during a governor-declared statewide state of  
26 emergency; and adding a new section to chapter 43.06 RCW."

**EFFECT:** Removes the automatic waiver of statutes and  
administrative regulations upon a declaration of emergency and  
instead requires the Governor to determine, within five days of a  
declaration of a state of emergency, which specified health care  
related statutes and equivalent regulations should be waived to  
ensure hospitals can adequately respond to the emergency. Requires  
hospitals to notify the Department of Health when acting in reliance  
on a waived state statute during an emergency. Removes protection  
from state sanctions for entities acting in reliance on a waiver of

Federal law when the corresponding state law has not been waived during an emergency.

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