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**SUBSTITUTE SENATE BILL 5178**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Cleveland, Muzzall, and Wilson, C.)

READ FIRST TIME 02/01/21.

1 AN ACT Relating to establishing automatic waivers of select state  
2 health care laws to enable timely response by the health care system  
3 during a governor-declared statewide state of emergency; and adding a  
4 new section to chapter 43.06 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.06  
7 RCW to read as follows:

8 (1) To ensure the readiness of the health care system and its  
9 ability to work with emergency management in responding to an  
10 emergency or disaster, the statutes and regulations set forth in this  
11 section are automatically waived or suspended upon the governor's  
12 declaration of a statewide state of emergency pursuant to RCW  
13 43.06.010, unless:

14 (a) The governor issues an order rejecting the waiver or  
15 suspension of all statutes and regulations or specific statutes or  
16 regulations based on a finding that strict compliance with the  
17 statutes or regulations would not prevent, hinder, or delay necessary  
18 action in responding to the emergency or disaster; or

19 (b) The statute or regulation implements or is dependent on a  
20 federal law that has not been waived by the federal government and  
21 waiving the state statute or regulation would result in a failure to

1 comply with such federal law. For the purposes of this exception, a  
2 federal law for which the federal government has issued a statement  
3 regarding enforcement discretion is treated as waived.

4 (2) The statutes and regulations that are automatically waived or  
5 suspended as provided in subsection (1) of this section are:

6 (a) RCW 70.38.105(4) (a), (b), (e), and (h);

7 (b) WAC 246-310-020(1) (a) through (c) and (e);

8 (c) RCW 70.41.110, the following language only:

9 (i) ": PROVIDED, That no license issued pursuant to this chapter  
10 shall exceed thirty-six months in duration";

11 (ii) "premises and"; and

12 (iii) "Licenses shall be posted in a conspicuous place on the  
13 licensed premises.";

14 (d) RCW 70.41.170;

15 (e) WAC 246-320-111(1) (b) and (c);

16 (f) WAC 246-320-116 (2) and (3);

17 (g) WAC 246-320-296(10);

18 (h) WAC 246-320-500;

19 (i) WAC 246-320-505;

20 (j) WAC 246-320-600;

21 (k) RCW 70.41.230;

22 (l) RCW 70.41.090 (3), (4), and (5);

23 (m) RCW 70.41.080;

24 (n) RCW 70.56.020(2)(a), the following language only: ", within  
25 forty-eight hours";

26 (o) RCW 70.56.020(2)(b), the following language only: "within  
27 forty-five days";

28 (p) RCW 18.64.043(1), the following language only: "of location,  
29 which shall entitle the owner to operate such pharmacy at the  
30 location specified, or such other temporary location as the secretary  
31 may approve,";

32 (q) RCW 18.64.043(2)(a), the following language only: "of  
33 location";

34 (r) RCW 18.64.043(3), the following language only: "and to keep  
35 the license of location or the renewal thereof properly exhibited in  
36 said pharmacy.";

37 (s) WAC 246-945-230 (3)(a), (b), and (c) and (4);

38 (t) RCW 43.70.280(2), the following language only: "Such  
39 extension, reduction, or other modification of a licensing,  
40 certification, or registration period shall be by rule or regulation

1 of the department of health adopted in accordance with the provisions  
2 of chapter 34.05 RCW. Such rules and regulations may provide a method  
3 for imposing and collecting such additional proportional fee as may  
4 be required for the extended or modified period.";

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

9 (v) WAC 246-12-130(2)(d);

10 (w) WAC 246-12-430(1)(a); and

11 (x) WAC 246-12-440.

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

19 (4) If the governor's proclamation of a state of emergency  
20 coincides with a state of emergency declaration by the president of  
21 the United States that includes the state of Washington and any  
22 agency of the federal government waives or suspends statutory and  
23 regulatory obligations or limitations that apply to the health care  
24 system operating in this state, for which there is a corresponding  
25 state statute or regulation that has not been automatically waived  
26 under this section, the state may not penalize a health care facility  
27 or a health care provider as defined in RCW 70.02.010 for acting in  
28 reliance on the federal waiver or suspension until the state  
29 explicitly declines to waive or suspend the corresponding state  
30 statute or regulation.

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