CERTIFICATION OF ENROLLMENT

**SECOND SUBSTITUTE HOUSE BILL 1724**

Chapter 425, Laws of 2023

68th Legislature

2023 Regular Session

BEHAVIORAL HEALTH WORKFORCE—VARIOUS PROVISIONS

EFFECTIVE DATE: May 11, 2023—Except for section 21, which is contingent; sections 8 through 12 and 32, which take effect July 23, 2023; and section 27, which takes effect October 1, 2023.

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| Passed by the House April 18, 2023  Yeas 97 Nays 0  LAURIE JINKINS  **Speaker of the House of Representatives**  Passed by the Senate April 12, 2023  Yeas 48 Nays 0  DENNY HECK  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1724** as passed by the House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved May 11, 2023 9:52 AM | May 11, 2023 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SECOND SUBSTITUTE HOUSE BILL 1724**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Bateman, Macri, Taylor, Berry, Tharinger, Slatter, Callan, Leavitt, Reed, and Shavers)

AN ACT Relating to increasing the trained behavioral health workforce; amending RCW 18.83.170, 18.205.140, 18.225.090, 18.225.140, 18.122.100, 18.205.110, 18.225.110, 18.130.050, 18.19.020, 18.19.030, 18.19.090, 18.19.095, 18.19.180, 18.19.210, 71.05.020, 71.05.020, 43.43.842, 18.205.105, 18.130.175, 18.130.040, and 18.130.040; reenacting and amending RCW 71.05.760; adding a new section to chapter 43.70 RCW; adding new sections to chapter 18.130 RCW; adding a new section to chapter 18.225 RCW; adding a new section to chapter 18.19 RCW; creating a new section; providing an effective date; providing a contingent effective date; providing an expiration date; providing a contingent expiration date; and declaring an emergency.

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

**Sec.**  RCW 18.83.170 and 2019 c 351 s 1 are each amended to read as follows:

(1) Upon compliance with administrative procedures, administrative requirements, and fees determined under RCW 43.70.250 and 43.70.280, the board may grant a license, without oral examination, to any applicant who has not previously failed any examination held by the board of psychology of the state of Washington and furnishes evidence satisfactory to the board that the applicant:

(a) Holds a doctoral degree with primary emphasis on psychology from an accredited college or university; and

(b)(i) Is licensed or certified to practice psychology in another state or country in which the requirements for such licensing or certification are, in the judgment of the board, essentially equivalent to those required by this chapter and the rules and regulations of the board. Such individuals must have been licensed or certified in another state for a period of at least two years; or

(ii) Is a diplomate in good standing of the American Board of Examiners in Professional Psychology; or

(iii) Is a member of a professional organization and holds a certificate deemed by the board to meet standards equivalent to this chapter.

(2)(a)(i) The department shall establish a reciprocity program for applicants for licensure as a psychologist in Washington.

(ii) The reciprocity program applies to applicants for a license as a psychologist who:

(A) Hold or have held within the past twelve months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary license to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary license and, within a reasonable time period, transition to a full license. ((~~A person who holds a probationary license may only practice as a psychologist in a licensed or certified service provider, as defined in RCW 71.24.025.~~)) The department may place a reasonable time limit on a probationary license and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter.

**Sec.**  RCW 18.205.140 and 2019 c 351 s 2 are each amended to read as follows:

(1) An applicant holding a credential in another state may be certified to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

(2)(a)(i) The department shall establish a reciprocity program for applicants for certification as a ((~~chemical dependency~~)) substance use disorder professional in Washington.

(ii) The reciprocity program applies to applicants for certification as a ((~~chemical dependency~~)) substance use disorder professional who:

(A) Hold or have held within the past twelve months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for certified ((~~chemical dependency~~)) substance use disorder professionals as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary certificate to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary certificate and, within a reasonable time period, transition to a full certificate. ((~~A person who holds a probationary certificate may only practice as a chemical dependency professional in a licensed or certified service provider, as defined in RCW 71.24.025.~~)) The department may place a reasonable time limit on a probationary certificate and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for certified ((~~chemical dependency~~)) substance use disorder professionals as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for certified ((~~chemical dependency~~)) substance use disorder professionals as established under this chapter.

**Sec.**  RCW 18.225.090 and 2021 c 21 s 1 are each amended to read as follows:

(1) The secretary shall issue a license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following education and experience requirements for the applicant's practice area.

(a) Licensed social work classifications:

(i) Licensed advanced social worker:

(A) Graduation from a master's ((~~or doctorate~~)) social work educational program accredited by the council on social work education or a social work doctorate program at a university accredited by a recognized accrediting organization, and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of ((~~three thousand two hundred~~)) 3,000 hours with supervision by an approved supervisor who has been licensed for at least two years. Of those supervised hours:

(I) At least ((~~ninety~~)) 90 hours must include direct supervision as specified in this subsection by a licensed independent clinical social worker, a licensed advanced social worker, or an equally qualified licensed mental health professional. Of those hours of directly supervised experience((~~:~~

~~(1) At least fifty hours must include supervision by a licensed advanced social worker or licensed independent clinical social worker; the other forty hours may be supervised by an equally qualified licensed mental health practitioner; and~~

~~(2) At~~)) at least ((~~forty~~)) 40 hours must be in one-to-one supervision and fifty hours may be in one-to-one supervision or group supervision; and

(II) ((~~Eight hundred~~)) 800 hours must be in direct client contact; and

(D) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(ii) Licensed independent clinical social worker:

(A) Graduation from a master's ((~~or doctorate~~)) level social work educational program accredited by the council on social work education or a social work doctorate program at a university accredited by a recognized accrediting organization, and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of ((~~four thousand~~)) 3,000 hours of experience, over a period of not less than ((~~three~~)) two years, with supervision by an approved supervisor who has been licensed for at least two years and, as specified in this subsection, may be either a licensed independent clinical social worker who has had at least one year of experience in supervising the clinical social work of others or an equally qualified licensed mental health practitioner. Of those supervised hours:

(I) At least ((~~one thousand~~)) 1,000 hours must be direct client contact; and

(II) Hours of direct supervision must include:

(1) At least ((~~one hundred thirty~~)) 100 hours by a licensed mental health practitioner;

(2) At least ((~~seventy~~)) 70 hours of supervision with a licensed independent clinical social worker meeting the qualifications under this subsection (1)(a)(ii)(C); the ((~~other sixty~~)) remaining hours may be supervised by an equally qualified licensed mental health practitioner; and

(3) At least ((~~sixty~~)) 60 hours must be in one-to-one supervision and ((~~seventy~~)) the remaining hours may be in one-to-one supervision or group supervision; and

(D) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(b) Licensed mental health counselor:

(i) Graduation from a master's or doctoral level educational program in mental health counseling or a related discipline from a college or university approved by the secretary based upon nationally recognized standards;

(ii) Successful completion of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of ((~~thirty-six~~)) 36 months full-time counseling or ((~~three thousand~~)) 3,000 hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner, in an approved setting. The three thousand hours of required experience includes a minimum of ((~~one hundred~~)) 100 hours spent in immediate supervision with the qualified licensed mental health counselor, and includes a minimum of ((~~one thousand two hundred~~)) 1,200 hours of direct counseling with individuals, couples, families, or groups; and

(iv) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(c) Licensed marriage and family therapist:

(i) Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards;

(ii) Successful passage of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of ((~~two calendar years of full-time~~)) 3,000 hours of marriage and family therapy. Of the total supervision, ((~~one hundred~~)) 100 hours must be with a licensed marriage and family therapist with at least five years' clinical experience; the other ((~~one hundred~~)) 100 hours may be with an equally qualified licensed mental health practitioner. Total experience requirements include:

(A) ((~~A minimum of three thousand hours of experience, one thousand~~)) 1,000 hours of ((~~which must be~~)) direct client contact; at least ((~~five hundred~~)) 500 hours must be gained in diagnosing and treating couples and families; plus

(B) At least ((~~two hundred~~)) 200 hours of qualified supervision with a supervisor. At least ((~~one hundred~~)) 100 of the ((~~two hundred~~)) 200 hours must be one-on-one supervision, and the remaining hours may be in one-on-one or group supervision.

Applicants who have completed a master's program accredited by the commission on accreditation for marriage and family therapy education of the American association for marriage and family therapy may be credited with ((~~five hundred~~)) 500 hours of direct client contact and ((~~one hundred~~)) 100 hours of formal meetings with an approved supervisor; and

(iv) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(2) The department shall establish by rule what constitutes adequate proof of meeting the criteria. Only rules in effect on the date of submission of a completed application of an associate for her or his license shall apply. If the rules change after a completed application is submitted but before a license is issued, the new rules shall not be reason to deny the application.

(3) In addition, applicants shall be subject to the grounds for denial of a license or issuance of a conditional license under chapter 18.130 RCW.

**Sec.**  RCW 18.225.140 and 2019 c 351 s 3 are each amended to read as follows:

(1) An applicant holding a credential in another state may be licensed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the licensing standards in this state.

(2)(a)(i) The department shall establish a reciprocity program for applicants for licensure as an advanced social worker, an independent clinical social worker, a mental health counselor, or a marriage and family therapist in Washington.

(ii) The reciprocity program applies to applicants for a license as an advanced social worker, an independent clinical social worker, a mental health counselor, or a marriage and family therapist who:

(A) Hold or have held within the past ((~~twelve~~)) 12 months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for the corresponding license as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary license to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary license and, within a reasonable time period, transition to a full license. ((~~A person who holds a probationary license may only practice in the relevant profession in a licensed or certified service provider, as defined in RCW 71.24.025.~~)) The department may place a reasonable time limit on a probationary license and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed advanced social workers, independent clinical social workers, mental health counselors, or marriage and family therapists as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed advanced social workers, independent clinical social workers, mental health counselors, and marriage and family therapists under this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 43.70 RCW to read as follows:

(1) The department, in consultation with the workforce training and education coordinating board and the examining board of psychology, shall examine licensure requirements for the following professions to identify changes to statutes and rules that would remove barriers to entering and remaining in the health care workforce and to streamline and shorten the credentialing process:

(a) Advanced social workers and independent clinical social workers licensed under chapter 18.225 RCW;

(b) Marriage and family therapists licensed under chapter 18.225 RCW;

(c) Mental health counselors licensed under chapter 18.225 RCW;

(d) Substance use disorder professionals certified under chapter 18.205 RCW; and

(e) Psychologists licensed under chapter 18.83 RCW.

(2) The licensure requirements to be examined by the department shall include examinations, continuing education requirements, administrative requirements for license application and renewal, English language proficiency requirements, and supervised experience requirements, including supervisor requirements and costs associated with completing supervised experience requirements.

(3) When conducting the review required in subsection (1) of this section, the department shall at a minimum consider the following:

(a) The availability of peer-reviewed research and other evidence, including requirements in other states, indicating the necessity of specific licensure requirements for ensuring that behavioral health professionals are prepared to practice with reasonable skill and safety;

(b) Changes that would facilitate licensure of qualified, out-of-state and international applicants to promote reciprocity, including the adoption of applicable interstate compacts;

(c) Changes that would promote greater consistency across licensure requirements for professions licensed under chapter 18.225 RCW and allow for applicants' prior professional experience within relevant fields to be counted towards supervised experience requirements established under chapter 18.225 RCW, including the extent to which an applicant may use prior professional experience gained before graduation from a master's or doctoral level educational program to satisfy the applicant's supervised experience requirement;

(d) Technical assistance programs, such as navigators or dedicated customer service lines, to facilitate the completion of licensing applications;

(e) In consultation with the examining board of psychology and a statewide organization representing licensed psychologists, the creation of an associate-level license for psychologists;

(f) Whether agency affiliated counselors should be allowed to practice in federally qualified health centers; and

(g) Any rules that pose excessive administrative requirements for application or renewal or that place a disproportionate burden on applicants from disadvantaged communities.

(4) By November 1, 2023, the department shall provide a progress report and initial findings to the appropriate committees of the legislature on actions and recommendations to remove licensing barriers and improve credentialing time frames.

(5) By November 1, 2024, the department shall provide a final report to the appropriate committees of the legislature on actions and recommendations to remove licensing barriers and improve credentialing time frames.

NEW SECTION. **Sec.**  A new section is added to chapter 18.130 RCW to read as follows:

(1) By July 1, 2024, the department and the examining board of psychology shall adopt emergency rules to implement changes to licensing requirements to remove barriers to entering and remaining in the health care workforce and to streamline and shorten the credentialing process. Pursuant to RCW 34.05.350, the legislature finds that the rules adopted under this section are necessary for the preservation of the public health, safety, or general welfare and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest. The disciplining authorities shall, therefore, adopt the rules required under this section as emergency rules.

(2) By July 1, 2025, the department and the examining board of psychology shall adopt permanent rules to implement changes to licensing requirements to remove barriers to entering and remaining in the health care workforce and to streamline and shorten the credentialing process.

NEW SECTION. **Sec.**  A new section is added to chapter 18.225 RCW to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, by October 1, 2023, the department shall develop a program to facilitate placement of associates with clinical supervision services. The program must include a database of license holders with the required qualifications who are willing to serve as approved supervisors and agencies or facilities that offer supervision services through their facilities to associates seeking to satisfy supervised experience requirements under RCW 18.225.090.

(b) The department shall adopt, by rule, minimum qualifications for supervisors or facilities to be included in the database and minimum standards for adequate supervision of associates. The department may not include in the database any person who, or facility that, does not meet the minimum qualifications. The department shall periodically audit the list to remove persons who, or facilities that, no longer meet the minimum qualifications or fail to meet the minimum standards.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department shall establish a stipend program to defray the out-of-pocket expenses incurred by associates completing supervised experience requirements under RCW 18.225.090.

(a) Out-of-pocket expenses eligible for defrayment under this section include costs incurred in order to obtain supervised experience, such as fees or charges imposed by the individual or entity providing supervision, and any other expenses deemed appropriate by the department.

(b) Associates participating in the stipend program established in this section shall document their out-of-pocket expenses in a manner specified by the department.

(c) When adopting the stipend program, the department shall consider defraying out-of-pocket expenses associated with unpaid internships that are part of an applicant's educational program.

(d) The department shall establish the stipend program no later than July 1, 2024.

(e) The department may adopt any rules necessary to implement this section.

NEW SECTION. **Sec.**  A new section is added to chapter 18.130 RCW to read as follows:

(1) Disciplining authorities shall waive education, training, experience, and exam requirements for applicants who have been credentialed in another state or states with substantially equivalent standards for at least two years immediately preceding their application with no interruption in licensure last longer than 90 days.

(2) Disciplining authorities may waive education, training, experience, or exam requirements for applicants who have achieved a national certification for the profession as determined by the disciplining authority in rule.

(3) Disciplining authorities may only issue credentials under this section to applicants who:

(a) Are not subject to denial of a license or issuance of a conditional license under this chapter;

(b) Have not been subject to disciplinary action for unprofessional conduct or impairment in any state, federal, or foreign jurisdiction in the two years preceding their application or during the pendency of their application; and

(c) Are not under investigation or subject to charges in any state, federal, or foreign jurisdiction during the pendency of their application.

**Sec.**  RCW 18.122.100 and 1989 1st ex.s. c 9 s 310 are each amended to read as follows:

(1) The date and location of examinations shall be established by the secretary. Applicants ((~~who have been found by the secretary to meet the other requirements for licensure or certification~~)) shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the secretary has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

**Sec.**  RCW 18.205.110 and 1998 c 243 s 11 are each amended to read as follows:

(1) The date and location of examinations shall be established by the secretary. Applicants ((~~who have been found by the secretary to meet the other requirements for certification~~)) shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the secretary has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the certification requirements.

**Sec.**  RCW 18.225.110 and 2001 c 251 s 11 are each amended to read as follows:

(1) The date and location of examinations shall be established by the secretary. Applicants ((~~who have been found by the secretary to meet the other requirements for licensure~~)) shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the secretary has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the licensing requirements.

**Sec.**  RCW 18.130.050 and 2016 c 81 s 13 are each amended to read as follows:

Except as provided in RCW 18.130.062, the disciplining authority has the following authority:

(1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;

(2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter;

(3) To hold hearings as provided in this chapter;

(4) To issue subpoenas and administer oaths in connection with any investigation, consideration of an application for license, hearing, or proceeding held under this chapter;

(5) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(6) To compel attendance of witnesses at hearings;

(7) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews and to issue citations and assess fines for failure to produce documents, records, or other items in accordance with RCW 18.130.230;

(8) To take emergency action ordering summary suspension of a license, or restriction or limitation of the license holder's practice pending proceedings by the disciplining authority. Within fourteen days of a request by the affected license holder, the disciplining authority must provide a show cause hearing in accordance with the requirements of RCW 18.130.135. In addition to the authority in this subsection, a disciplining authority shall, except as provided in RCW 9.97.020:

(a) Consistent with RCW 18.130.370, issue a summary suspension of the license or temporary practice permit of a license holder prohibited from practicing a health care profession in another state, federal, or foreign jurisdiction because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this chapter or any of the chapters specified in RCW 18.130.040. The summary suspension remains in effect until proceedings by the Washington disciplining authority have been completed;

(b) Consistent with RCW 18.130.400, issue a summary suspension of the license or temporary practice permit if, under RCW 74.39A.051, the license holder is prohibited from employment in the care of vulnerable adults based upon a department of social and health services' final finding of abuse or neglect of a minor or abuse, abandonment, neglect, or financial exploitation of a vulnerable adult. The summary suspension remains in effect until proceedings by the disciplining authority have been completed;

(9) To conduct show cause hearings in accordance with RCW 18.130.062 or 18.130.135 to review an action taken by the disciplining authority to suspend a license or restrict or limit a license holder's practice pending proceedings by the disciplining authority;

(10) To use a presiding officer as authorized in RCW 18.130.095(3) or the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. Disciplining authorities identified in RCW 18.130.040(2) shall make the final decision regarding disposition of the license unless the disciplining authority elects to delegate in writing the final decision to the presiding officer. Disciplining authorities identified in RCW 18.130.040(2)(b) may not delegate the final decision regarding disposition of the license or imposition of sanctions to a presiding officer in any case pertaining to standards of practice or where clinical expertise is necessary, including deciding any motion that results in dismissal of any allegation contained in the statement of charges. Presiding officers acting on behalf of the secretary shall enter initial orders. The secretary may, by rule, provide that initial orders in specified classes of cases may become final without further agency action unless, within a specified time period:

(a) The secretary upon his or her own motion determines that the initial order should be reviewed; or

(b) A party to the proceedings files a petition for administrative review of the initial order;

(11) To use individual members of the boards to direct investigations and to authorize the issuance of a citation under subsection (7) of this section. However, the member of the board shall not subsequently participate in the hearing of the case;

(12) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(13) To contract with license holders or other persons or organizations to provide services necessary for the monitoring and supervision of license holders who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the disciplining authority;

(14) To adopt standards of professional conduct or practice;

(15) To grant or deny license applications, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter. After January 1, 2009, all sanctions must be issued in accordance with RCW 18.130.390;

(16) To restrict or place conditions on the practice of new licensees in order to protect the public and promote the safety of and confidence in the health care system;

(17) To designate individuals authorized to sign subpoenas and statements of charges;

(18) To establish panels consisting of three or more members of the board to perform any duty or authority within the board's jurisdiction under this chapter;

(19) To review and audit the records of licensed health facilities' or services' quality assurance committee decisions in which a license holder's practice privilege or employment is terminated or restricted. Each health facility or service shall produce and make accessible to the disciplining authority the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to discovery or introduction into evidence in any civil action pursuant to RCW 70.41.200(3);

(20) To enter into contracts with persons or entities to review applications for licensure or temporary practice permits, provided that the disciplining authority shall make the final decision as to whether to deny, grant with conditions, or grant a license or temporary practice permit.

**Sec.**  RCW 18.19.020 and 2021 c 170 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means (a) an agency or facility operated, licensed, or certified by the state of Washington; (b) a federally recognized Indian tribe located within the state; or (c) a county.

(2) "Agency affiliated counselor" means a person registered, certified, or licensed under this chapter who is ((~~engaged in counseling and~~)) employed by an agency or is a student intern, as defined by the department((~~, who is supervised by agency staff. "Agency affiliated counselor" includes juvenile probation counselors who are employees of the juvenile court under RCW 13.04.035 and 13.04.040 and juvenile court employees providing functional family therapy, aggression replacement training, or other evidence-based programs approved by the department of children, youth, and families~~)).

(3) "Certified adviser" means a person certified under this chapter who is engaged in private practice counseling to the extent authorized in RCW 18.19.200.

(4) "Certified agency affiliated counselor" means a person certified under this chapter who is engaging in counseling to the extent authorized in section 18 of this act.

(5) "Certified counselor" means a person certified under this chapter who is engaged in private practice counseling to the extent authorized in RCW 18.19.200.

((~~(5)~~)) (6) "Client" means an individual who receives or participates in counseling or group counseling.

((~~(6)~~)) (7) "Counseling" means employing any therapeutic techniques, including but not limited to social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee that offer, assist or attempt to assist an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential. For the purposes of this chapter, nothing may be construed to imply that the practice of hypnotherapy is necessarily limited to counseling.

((~~(7)~~)) (8) "Counselor" means an individual, practitioner, therapist, or analyst who engages in the practice of counseling to the public for a fee, including for the purposes of this chapter, hypnotherapists.

((~~(8)~~)) (9) "Department" means the department of health.

((~~(9)~~)) (10) "Hypnotherapist" means a person registered under this chapter who is practicing hypnosis as a modality.

((~~(10)~~)) (11) "Licensed agency affiliated counselor" means a person licensed under this chapter who is engaged in counseling to the extent authorized in section 18 of this act.

(12) "Mental health professional" has the same definition as under RCW 71.05.020.

(13) "Private practice counseling" means the practice of counseling by a certified counselor or certified adviser as specified in RCW 18.19.200.

((~~(11)~~)) (14) "Psychotherapy" means the practice of counseling using diagnosis of mental disorders according to the fourth edition of the diagnostic and statistical manual of mental disorders, published in 1994, and the development of treatment plans for counseling based on diagnosis of mental disorders in accordance with established practice standards.

((~~(12)~~)) (15) "Registered agency affiliated counselor" means a person registered under this chapter who is engaged in counseling to the extent authorized in section 18 of this act. This includes juvenile probation counselors who are employees of the juvenile court under RCW 13.04.035 and 13.04.040 and juvenile court employees providing functional family therapy, aggression replacement training, or other evidence-based programs approved by the department of children, youth, and families. A student intern as defined by the department may be a registered agency affiliated counselor.

(16) "Secretary" means the secretary of the department or the secretary's designee.

**Sec.**  RCW 18.19.030 and 2008 c 135 s 2 are each amended to read as follows:

A person may not, as a part of his or her position as an employee of a state agency, practice counseling without being registered, certified, or licensed to practice as an agency affiliated counselor by the department under this chapter unless exempt under RCW 18.19.040.

**Sec.**  RCW 18.19.090 and 2008 c 135 s 8 are each amended to read as follows:

(1) Application for agency affiliated counselor, certified counselor, certified adviser, or hypnotherapist must be made on forms approved by the secretary. The secretary may require information necessary to determine whether applicants meet the qualifications for the credential and whether there are any grounds for denial of the credential, or for issuance of a conditional credential, under this chapter or chapter 18.130 RCW. The application for agency affiliated counselor, certified counselor, or certified adviser must include a description of the applicant's orientation, discipline, theory, or technique. Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70.250, which shall accompany the application.

(2) Applicants for agency affiliated counselor must provide satisfactory documentation that they are employed by an agency ((~~or~~)), have an offer of employment from an agency, or are a student intern as defined by the department.

(3) Applicants for certified agency affiliated counselor must complete the following:

(a) A bachelor's degree in counseling or one of the social sciences from an accredited college or university which includes coursework specified in subsection (5) of this section; and

(b) At least five years of experience in direct treatment of persons with a mental disorder that was gained under the supervision of a mental health professional who is able to independently provide mental health assessments and diagnoses according to the scope of practice of the mental health professional's credential.

(4) Applicants for licensed agency affiliated counselor must complete the following:

(a) An advanced degree in counseling or one of the social sciences from an accredited college or university which includes coursework specified in subsection (5) of this section; and

(b) At least two years of experience in direct treatment of persons with a mental disorder that was gained under the supervision of a mental health professional who is able to independently provide mental health assessments and diagnoses according to the scope of practice of the mental health professional's credential.

(5) Applicants for a certified or licensed agency affiliated counselor credential must have counseling-specific coursework as determined by the department in rule.

(6)(a) Applicants for licensed agency affiliated counselor are not required to meet the coursework requirements in subsection (5) of this section if, prior to the effective date of the rules adopted under subsection (5) of this section, the applicant held a mental health professional designation based on meeting one of the following criteria:

(i) The applicant held an advanced degree in counseling or one of the social sciences from an accredited college or university and had two years of experience in direct treatment of persons with mental illness or emotional disturbance that was gained under the supervision of a mental health professional recognized by the department or attested to by a licensed behavioral health agency;

(ii) The applicant met the waiver criteria of RCW 71.24.260, and the waiver was granted prior to 1986; or

(iii) The applicant had an approved waiver to perform the duties of a mental health professional, that was requested by the behavioral health organization and granted by the mental health division prior to July 1, 2001.

(b) Applicants for certified agency affiliated counselor are not required to meet the coursework requirements in subsection (5) of this section if, prior to the effective date of the rules adopted under subsection (5) of this section, the applicant met the bachelor's degree and experience requirements in subsection (3) of this section.

(c) Applicants for licensed or certified agency affiliated counselors eligible for the legacy provision under this subsection must apply to the department before July 1, 2027. After that date all new applicants must meet the requirements in subsections (3) and (4) of this section. "New applicants" does not include those reinstating a previously issued agency affiliated counselor certification.

(7) At the time of application for initial certification, applicants for certified counselor prior to July 1, 2010, are required to:

(a) Have been registered for no less than five years at the time of application for an initial certification;

(b) Have held a valid, active registration that is in good standing and be in compliance with any disciplinary process and orders at the time of application for an initial certification;

(c) Show evidence of having completed coursework in risk assessment, ethics, appropriate screening and referral, and Washington state law and other subjects identified by the secretary;

(d) Pass an examination in risk assessment, ethics, appropriate screening and referral, and Washington state law, and other subjects as determined by the secretary; and

(e) Have a written consultation agreement with a credential holder who meets the qualifications established by the secretary.

((~~(4)~~)) (8) Unless eligible for certification under subsection ((~~(3)~~)) (7) of this section, applicants for certified counselor or certified adviser are required to:

(a)(i) Have a bachelor's degree in a counseling-related field, if applying for certified counselor; or

(ii) Have an associate degree in a counseling-related field and a supervised internship, if applying for certified adviser;

(b) Pass an examination in risk assessment, ethics, appropriate screening and referral, and Washington state law, and other subjects as determined by the secretary; and

(c) Have a written supervisory agreement with a supervisor who meets the qualifications established by the secretary.

((~~(5)~~)) (9) Each applicant shall include payment of the fee determined by the secretary as provided in RCW 43.70.250.

**Sec.**  RCW 18.19.095 and 2019 c 446 s 45 are each amended to read as follows:

The department may not automatically deny an applicant for ((~~registration under this chapter for a position as~~)) an agency affiliated counselor credential who is practicing as a peer counselor in an agency or facility based on a conviction history consisting of convictions for simple assault, assault in the fourth degree, prostitution, theft in the third degree, theft in the second degree, or forgery, the same offenses as they may be renamed, or substantially equivalent offenses committed in other states or jurisdictions if:

(1) At least one year has passed between the applicant's most recent conviction for an offense set forth in this section and the date of application for employment;

(2) The offense was committed as a result of the person's substance use or untreated mental health symptoms; and

(3) The applicant is at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from mental health challenges.

**Sec.**  RCW 18.19.180 and 2001 c 251 s 24 are each amended to read as follows:

An individual ((~~registered~~)) credentialed under this chapter shall not disclose the written acknowledgment of the disclosure statement pursuant to RCW 18.19.060 nor any information acquired from persons consulting the individual in a professional capacity when that information was necessary to enable the individual to render professional services to those persons except:

(1) With the written consent of that person or, in the case of death or disability, the person's personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health, or physical condition;

(2) That a person ((~~registered~~)) credentialed under this chapter is not required to treat as confidential a communication that reveals the contemplation or commission of a crime or harmful act;

(3) If the person is a minor, and the information acquired by the person ((~~registered~~)) credentialed under this chapter indicates that the minor was the victim or subject of a crime, the person ((~~registered~~)) credentialed may testify fully upon any examination, trial, or other proceeding in which the commission of the crime is the subject of the inquiry;

(4) If the person waives the privilege by bringing charges against the person ((~~registered~~)) credentialed under this chapter;

(5) In response to a subpoena from a court of law or the secretary. The secretary may subpoena only records related to a complaint or report under chapter 18.130 RCW; or

(6) As required under chapter 26.44 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 18.19 RCW to read as follows:

The scope of practice of registered, certified, and licensed agency affiliated counselors consists exclusively of the following:

(1) Counseling as defined under RCW 18.19.020;

(2) A certified agency affiliated counselor may conduct mental health assessments and make mental health diagnoses which shall be reviewed by a clinical supervisor who is a mental health professional able to independently provide mental health assessments and diagnoses according to the scope of practice of the mental health professional's credential. A certified agency affiliated counselor may not provide clinical supervision; and

(3) A licensed agency affiliated counselor may independently conduct mental health assessments and make mental health diagnoses.

**Sec.**  RCW 18.19.210 and 2019 c 446 s 47 are each amended to read as follows:

(1)(a) An applicant for ((~~registration as~~)) an agency affiliated counselor credential who applies to the department within thirty days of employment by an agency may work as an agency affiliated counselor while the application is processed. The applicant must provide required documentation within reasonable time limits established by the department, and if the applicant does not do so, the applicant must stop working.

(b) The applicant may not provide unsupervised ((~~counseling~~)) services prior to completion of a criminal background check performed by either the employer or the secretary. For purposes of this subsection, "unsupervised" means the supervisor is not physically present at the location where the counseling occurs.

(2) Agency affiliated counselors shall notify the department if they are either no longer employed by the agency identified on their application or are now employed with another agency, or both. Agency affiliated counselors may not engage in the practice of counseling or other services described under section 18 of this act unless they are currently affiliated with an agency.

**Sec.**  RCW 71.05.020 and 2022 c 210 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to: Hospitals licensed under chapter 70.41 RCW; evaluation and treatment facilities as defined in this section; community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025; licensed or certified behavioral health agencies under RCW 71.24.037; facilities conducting competency evaluations and restoration under chapter 10.77 RCW; approved substance use disorder treatment programs as defined in this section; secure withdrawal management and stabilization facilities as defined in this section; and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025;

(12) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(13) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(14) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(15) "Department" means the department of health;

(16) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(17) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(18) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(19) "Developmental disability" means that condition defined in RCW 71A.10.020((~~(5)~~)) (6);

(20) "Director" means the director of the authority;

(21) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

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

(23) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(24) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(25) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(26) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(27) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(28) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(29) "In need of assisted outpatient treatment" refers to a person who meets the criteria for assisted outpatient treatment established under RCW 71.05.148;

(30) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(31) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(32) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(33) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130;

(34) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585. This term includes: Treatment pursuant to a less restrictive alternative treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant to a conditional release under RCW 71.05.340; and treatment pursuant to an assisted outpatient treatment order under RCW 71.05.148;

(35) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(36) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(37) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(38) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(39) "Mental health professional" means ((~~a~~)) an individual practicing within the mental health professional's statutory scope of practice who is:

(a) A psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, ((~~and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter~~)) as defined in this chapter and chapter 71.34 RCW;

(b) A mental health counselor, mental health counselor associate, marriage and family therapist, or marriage and family therapist associate, as defined in chapter 18.225 RCW; or

(c) A certified or licensed agency affiliated counselor, as defined in chapter 18.19 RCW;

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

(41) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW;

(42) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(43) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(44) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(45) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(46) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(47) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(48) "Release" means legal termination of the commitment under the provisions of this chapter;

(49) "Resource management services" has the meaning given in chapter 71.24 RCW;

(50) "Secretary" means the secretary of the department of health, or his or her designee;

(51) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(53) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(55) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(56) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

**Sec.**  RCW 71.05.020 and 2022 c 210 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to: Hospitals licensed under chapter 70.41 RCW; evaluation and treatment facilities as defined in this section; community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025; licensed or certified behavioral health agencies under RCW 71.24.037; facilities conducting competency evaluations and restoration under chapter 10.77 RCW; approved substance use disorder treatment programs as defined in this section; secure withdrawal management and stabilization facilities as defined in this section; and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025;

(12) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(13) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(14) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(15) "Department" means the department of health;

(16) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(17) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(18) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(19) "Developmental disability" means that condition defined in RCW 71A.10.020((~~(5)~~)) (6);

(20) "Director" means the director of the authority;

(21) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

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

(23) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(24) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(25) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(26) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(27) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(28) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(29) "In need of assisted outpatient treatment" refers to a person who meets the criteria for assisted outpatient treatment established under RCW 71.05.148;

(30) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(31) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(32) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(33) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130;

(34) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585. This term includes: Treatment pursuant to a less restrictive alternative treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant to a conditional release under RCW 71.05.340; and treatment pursuant to an assisted outpatient treatment order under RCW 71.05.148;

(35) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(36) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(37) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(38) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(39) "Mental health professional" means ((~~a~~)) an individual practicing within the mental health professional's statutory scope of practice who is:

(a) A psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, ((~~and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter~~)) as defined in this chapter and chapter 71.34 RCW;

(b) A mental health counselor, mental health counselor associate, marriage and family therapist, or marriage and family therapist associate, as defined in chapter 18.225 RCW; or

(c) A certified or licensed agency affiliated counselor, as defined in chapter 18.19 RCW;

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

(41) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW;

(42) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(43) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(44) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(45) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(46) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(47) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(48) "Release" means legal termination of the commitment under the provisions of this chapter;

(49) "Resource management services" has the meaning given in chapter 71.24 RCW;

(50) "Secretary" means the secretary of the department of health, or his or her designee;

(51) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(52) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior;

(53) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(54) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(55) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(56) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(57) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(58) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(59) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(60) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

**Sec.**  RCW 71.05.760 and 2019 c 446 s 16 and 2019 c 325 s 3015 are each reenacted and amended to read as follows:

(1)(a) The authority or its designee shall provide training to the designated crisis responders.

(b)(i) To qualify as a designated crisis responder, a person must have received substance use disorder training as determined by the authority and be a:

(A) ((~~Psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or social worker;~~

~~(B) Person who is licensed by the department as a mental health counselor or mental health counselor associate, or marriage and family therapist or marriage and family therapist associate;~~

~~(C) Person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university and who have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the direction of a mental health professional;~~

~~(D)~~)) Mental health professional with an advanced degree;

(B) Person who meets the waiver criteria of RCW 71.24.260, which waiver was granted before 1986; or

((~~(E)~~)) (C) Person who had an approved waiver to perform the duties of a mental health professional that was requested by the regional support network and granted by the department of social and health services before July 1, 2001((~~; or~~

~~(F) Person who has been granted an exception of the minimum requirements of a mental health professional by the department consistent with rules adopted by the secretary~~)).

(ii) Training must include training specific to the duties of a designated crisis responder, including diagnosis of substance abuse and dependence and assessment of risk associated with substance use.

(2)(a) The authority must ensure that at least one sixteen-bed secure withdrawal management and stabilization facility is operational by April 1, 2018, and that at least two sixteen-bed secure withdrawal management and stabilization facilities are operational by April 1, 2019.

(b) If, at any time during the implementation of secure withdrawal management and stabilization facility capacity, federal funding becomes unavailable for federal match for services provided in secure withdrawal management and stabilization facilities, then the authority must cease any expansion of secure withdrawal management and stabilization facilities until further direction is provided by the legislature.

**Sec.**  RCW 43.43.842 and 2021 c 215 s 150 are each amended to read as follows:

(1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies, facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not be the respondent in an active vulnerable adult protection order under chapter 7.105 RCW, nor have been: (i) Convicted of a crime against children or other persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; or (iii) found in any disciplinary board final decision to have abused a vulnerable adult as defined in RCW 43.43.830.

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, all crimes relating to financial exploitation, and all crimes relating to drugs as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(f) The department of social and health services reviewed the employee's otherwise disqualifying criminal history through the department of social and health services' background assessment review team process conducted in 2002, and determined that such employee could remain in a position covered by this section; or

(g) The otherwise disqualifying conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure.

The offenses set forth in (a) through (g) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) The rules adopted pursuant to subsection (2) of this section may not allow a licensee to automatically deny an applicant with a conviction for an offense set forth in subsection (2) of this section for a position as a substance use disorder professional or substance use disorder professional trainee certified under chapter 18.205 RCW if:

(a) At least one year has passed between the applicant's most recent conviction for an offense set forth in subsection (2) of this section and the date of application for employment;

(b) The offense was committed as a result of the applicant's substance use or untreated mental health symptoms; and

(c) The applicant is at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from a mental health disorder.

(4) The rules adopted pursuant to subsection (2) of this section may not allow a licensee to automatically deny an applicant with a conviction for an offense set forth in subsection (2) of this section for a position as an agency affiliated counselor ((~~registered~~)) credentialed under chapter 18.19 RCW practicing as a peer counselor in an agency or facility if:

(a) At least one year has passed between the applicant's most recent conviction for an offense set forth in subsection (2) of this section and the date of application for employment;

(b) The offense was committed as a result of the person's substance use or untreated mental health symptoms; and

(c) The applicant is at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from mental health challenges.

(5) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction record and the protection proceeding record information under this chapter of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose.

**Sec.**  RCW 18.205.105 and 2019 c 444 s 25 are each amended to read as follows:

(1) The department shall develop training standards for the creation of a co-occurring disorder specialist enhancement which may be added to the license or registration held by one of the following:

(a) Psychologists licensed under chapter 18.83 RCW;

(b) Independent clinical social workers licensed under chapter 18.225 RCW;

(c) Marriage and family therapists licensed under chapter 18.225 RCW;

(d) Mental health counselors licensed under chapter 18.225 RCW; and

(e) An agency affiliated counselor licensed under chapter 18.19 RCW ((~~with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university who has at least two years of experience, experience gained under the supervision of a mental health professional recognized by the department or attested to by the licensed behavioral health agency, in direct treatment of persons with mental illness or emotional disturbance~~)).

(2) To obtain the co-occurring disorder specialist enhancement, the applicant must meet training standards and experience requirements. The training standards must be designed with consideration of the practices of the health professions listed in subsection (1) of this section and consisting of sixty hours of instruction consisting of (a) thirty hours in understanding the disease pattern of addiction and the pharmacology of alcohol and other drugs; and (b) thirty hours in understanding addiction placement, continuing care, and discharge criteria, including the American society of addiction medicine criteria; treatment planning specific to substance abuse; relapse prevention; and confidentiality issues specific to substance use disorder treatment.

(3) In developing the training standards, the department shall consult with the examining board of psychology established in chapter 18.83 RCW, the Washington state mental health counselors, marriage and family therapists, and social workers advisory committee established in chapter 18.225 RCW, the substance use disorder certification advisory committee established in chapter 18.205 RCW, and educational institutions in Washington state that train psychologists, marriage and family therapists, mental health counselors, independent clinical social workers, and substance use disorder professionals.

(4) The department shall approve educational programs that meet the training standards, and must not limit its approval to university-based courses.

(5) The secretary shall issue a co-occurring disorder specialist enhancement to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Completion of the training standards;

(b) Successful completion of an approved examination based on core competencies of substance use disorder counseling;

(c) Successful completion of an experience requirement of:

(i) Eighty hours of supervised experience for an applicant listed under subsection (1) of this section with fewer than five years of experience; or

(ii) Forty hours of supervised experience for an applicant listed under subsection (1) of this section with five or more years of experience; and

(d) Payment of any fees that may be established by the department.

(6) An applicant for the co-occurring disorder specialist enhancement may receive supervised experience from any person who meets or exceeds the requirements of a certified substance use disorder professional in the state of Washington and who would be eligible to take the examination required for substance use disorder professional certification.

(7) A person who has obtained a co-occurring disorder specialist enhancement may provide substance use disorder counseling services which are equal in scope with those provided by substance use disorder professionals under this chapter, subject to the following limitations:

(a) A co-occurring disorder specialist may only provide substance use disorder counseling services if the co-occurring disorder specialist is employed by:

(i) An agency that provides counseling services;

(ii) A federally qualified health center; or

(iii) A hospital;

(b) Following an initial intake or assessment, a co-occurring disorder specialist may provide substance use disorder treatment only to clients diagnosed with a substance use disorder and a mental health disorder;

(c) Prior to providing substance use disorder treatment to a client assessed to be in need of 2.1 or higher level of care according to American society of addiction medicine criteria, a co-occurring disorder specialist must make a reasonable effort to refer and connect the client to the appropriate care setting, as indicated by the client's American society of addiction medicine level of care; and

(d) A co-occurring disorder specialist must comply with rules promulgated by the department under subsection (11) of this section.

(8) The secretary shall establish by rule what constitutes adequate proof of meeting the criteria.

(9) Applicants are subject to the grounds for denial of a certificate or issuance of a conditional certificate under chapter 18.130 RCW.

(10) The department may adopt a fee to defray the cost of regulatory activities related to the issuance of co-occurring disorder specialist enhancements and any related disciplinary activities.

(11) The department shall adopt rules regarding the role of co-occurring disorder specialists across the American society of addiction medicine continuum of care.

(12) Any increase in fees necessary to cover the cost of regulating co-occurring disorder ((~~professionals [specialists]~~)) specialists who receive an enhancement under this section must be borne by persons licensed as psychologists under chapter 18.83 RCW, independent clinical social workers under chapter 18.225 RCW, marriage and family therapists under chapter 18.225 RCW, or mental health counselors under chapter 18.225 RCW. The cost of regulating co-occurring disorder specialists who receive an enhancement under this section may not be borne by substance use disorder professionals or substance use disorder professional trainees certified under this chapter and may not be included in the calculation of fees for substance use disorder professionals or substance use disorder professional trainees certified under this chapter.

**Sec.**  RCW 18.130.175 and 2022 c 43 s 10 are each amended to read as follows:

(1) In lieu of disciplinary action under RCW 18.130.160 and if the disciplining authority determines that the unprofessional conduct may be the result of an applicable impairing or potentially impairing health condition, the disciplining authority may refer the license holder to a physician health program or a voluntary substance use disorder monitoring program approved by the disciplining authority.

The cost of evaluation and treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. Evaluation and treatment shall be provided by providers approved by the entity or the commission. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the physician health program or voluntary substance use disorder monitoring program shall be done only with the consent of the license holder. Referral to the physician health program or voluntary substance use disorder monitoring program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160 which includes suspension of the license unless or until the disciplining authority, in consultation with the director of the applicable program, determines the license holder is able to practice safely. The secretary shall adopt uniform rules for the evaluation by the disciplining authority of return to substance use or program violation on the part of a license holder in the program. The evaluation shall encourage program participation with additional conditions, in lieu of disciplinary action, when the disciplining authority determines that the license holder is able to continue to practice with reasonable skill and safety.

(2) In addition to approving the physician health program or the voluntary substance use disorder monitoring program that may receive referrals from the disciplining authority, the disciplining authority may establish by rule requirements for participation of license holders who are not being investigated or monitored by the disciplining authority. License holders voluntarily participating in the approved programs without being referred by the disciplining authority shall not be subject to disciplinary action under RCW 18.130.160 for their impairing or potentially impairing health condition, and shall not have their participation made known to the disciplining authority, if they meet the requirements of this section and the program in which they are participating.

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety. The physician health program or voluntary substance use disorder program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

(4) Program records including, but not limited to, case notes, progress notes, laboratory reports, evaluation and treatment records, electronic and written correspondence within the program, and between the program and the participant or other involved entities including, but not limited to, employers, credentialing bodies, referents, or other collateral sources, relating to license holders referred to or voluntarily participating in approved programs are confidential and exempt from disclosure under chapter 42.56 RCW and shall not be subject to discovery by subpoena or admissible as evidence except:

(a) To defend any civil action by a license holder regarding the restriction or revocation of that individual's clinical or staff privileges, or termination of a license holder's employment. In such an action, the program will, upon subpoena issued by either party to the action, and upon the requesting party seeking a protective order for the requested disclosure, provide to both parties of the action written disclosure that includes the following information:

(i) Verification of a health care professional's participation in the physician health program or voluntary substance use disorder monitoring program as it relates to aspects of program involvement at issue in the civil action;

(ii) The dates of participation;

(iii) Whether or not the program identified an impairing or potentially impairing health condition;

(iv) Whether the health care professional was compliant with the requirements of the physician health program or voluntary substance use disorder monitoring program; and

(v) Whether the health care professional successfully completed the physician health program or voluntary substance use disorder monitoring program; and

(b) Records provided to the disciplining authority for cause as described in subsection (3) of this section. Program records relating to license holders mandated to the program, through order or by stipulation, by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, must be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section are exempt from chapter 42.56 RCW and are not subject to discovery by subpoena except by the license holder.

(5) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the authority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

(6) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section, and applies to both license holders and students and trainees when students and trainees of the applicable professions are served by the program. The persons entitled to immunity shall include:

(i) An approved physician health program or voluntary substance use disorder monitoring program;

(ii) The professional association affiliated with the program;

(iii) Members, employees, or agents of the program or associations;

(iv) Persons reporting a license holder as being possibly impaired or providing information about the license holder's impairment; and

(v) Professionals supervising or monitoring the course of the program participant's treatment or rehabilitation.

(b) The courts are strongly encouraged to impose sanctions on program participants and their attorneys whose allegations under this subsection are not made in good faith and are without either reasonable objective, substantive grounds, or both.

(c) The immunity provided in this section is in addition to any other immunity provided by law.

(7) In the case of a person who is applying to be a substance use disorder professional or substance use disorder professional trainee certified under chapter 18.205 RCW, if the person is:

(a) Less than one year in recovery from a substance use disorder, the duration of time that the person may be required to participate in an approved substance use disorder monitoring program may not exceed the amount of time necessary for the person to achieve one year in recovery; or

(b) At least one year in recovery from a substance use disorder, the person may not be required to participate in the approved substance use disorder monitoring program.

(8) In the case of a person who is applying to be an agency affiliated counselor ((~~registered~~)) credentialed under chapter 18.19 RCW and practices or intends to practice as a peer counselor in an agency, as defined in RCW 18.19.020, if the person is:

(a) Less than one year in recovery from a substance use disorder, the duration of time that the person may be required to participate in the approved substance use disorder monitoring program may not exceed the amount of time necessary for the person to achieve one year in recovery; or

(b) At least one year in recovery from a substance use disorder, the person may not be required to participate in the approved substance use disorder monitoring program.

**Sec.**  RCW 18.130.040 and 2021 c 179 s 7 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists ((~~and~~)) registered, agency affiliated counselors registered, certified, or licensed, and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

**Sec.**  RCW 18.130.040 and 2022 c 217 s 5 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists ((~~and~~)) registered, agency affiliated counselors registered, certified, or licensed, and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW;

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; and

(xxvii) Birth doulas certified under chapter 18.47 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. **Sec.**  Section 20 of this act expires when section 21 of this act takes effect.

NEW SECTION. **Sec.**  Section 26 of this act expires October 1, 2023.

NEW SECTION. **Sec.**  Section 21 of this act takes effect when section 2, chapter 210, Laws of 2022 takes effect.

NEW SECTION. **Sec.**  Section 27 of this act takes effect October 1, 2023.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec.**  Sections 1 through 7, 13 through 20, and 22 through 26 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

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Passed by the House April 18, 2023.

Passed by the Senate April 12, 2023.

Approved by the Governor May 11, 2023.

Filed in Office of Secretary of State May 11, 2023.