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HOUSE BILL 1041

State of Washington 68th Legislature 2023 Regular Session

By Representatives Bateman, Macri, Ryu, Simmons, Goodman, Reed, Taylor, Callan, Doglio, Reeves, Wylie, Gregerson, Stonier, Kloba, and Ormsby

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AN ACT Relating to authorizing the prescriptive authority of psychologists; amending RCW 18.83.010, 18.83.035, 18.83.050, 18.83.080, 18.83.090, 18.64.011, and 18.79.260; reenacting and amending RCW 69.50.101; adding new sections to chapter 18.83 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec. 1.** The legislature finds that:

(1) One in five adults experience a mental illness each year and more than half of adults report that the COVID-19 pandemic has had a negative impact on their mental health;

(2) More than half of people with a mental health condition did not receive any treatment in the last year;

(3) According to the 2017 behavioral health workforce assessment report, Washington state has a lack of prescribers comfortable with prescribing psychiatric medications to support the behavioral health needs of the state;

(4) Washington state has experience credentialing health professions, such as advanced registered nurse practitioners, to safely prescribe a variety of medications, including psychotropics;

(5) The training program for advanced registered nurse practitioners has been shown to excel in training prescribers;

(6) A local accredited institution is creating a masters in clinical psychopharmacology program for psychologists and it will be substantially equivalent to the education required of an advanced practice psychiatric nurse; and

(7) Five other states, the department of defense, and the Indian health service have all successfully credentialed psychologists to safely prescribe psychotropic medications.

Sec. 2. RCW 18.83.010 and 1994 c 35 s 1 are each amended to read as follows:

((~~When used in this chapter:~~

~~(1) The "practice~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the examining board of psychology.

(2) "Clinical experience" means a period of supervised clinical training and practice in which clinical diagnoses and interventions are learned and which is conducted and supervised as part of the training program.

(3) "Clinical prescribing fellowship" means an intensive and closely supervised experience in prescribing psychology with a minimum of 100 patients for no less than 500 hours. The prescribing psychology fellowship is the final stage of practical training, which takes place after the completion of the didactic curriculum, at the postdoctoral level, and after becoming a licensed psychologist.

(4) "Department" means the department of health.

(5) "Practice of psychology" means the observation, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures for the purposes of preventing or eliminating symptomatic or maladaptive behavior and promoting mental and behavioral health. It includes, but is not limited to, providing the following services to individuals, families, groups, organizations, and the public, whether or not payment is received for services rendered:

(a) Psychological measurement, assessment, and evaluation by means of psychological, neuropsychological, and psychoeducational testing;

(b) Diagnosis and treatment of mental, emotional, and behavioral disorders, and psychological aspects of illness, injury, and disability; and

(c) Counseling and guidance, psychotherapeutic techniques, remediation, health promotion, and consultation within the context of established psychological principles and theories.

This definition does not include the teaching of principles of psychology for accredited educational institutions, or the conduct of research in problems of human or animal behavior.

((~~Nothing in this definition shall be construed as permitting the administration or prescribing of drugs or in any way infringing upon the practice of medicine and surgery as defined in chapter 18.71 RCW.~~

~~(2)~~)) (6) "Prescribing psychologist" means a person who holds an active license to engage in the practice of psychology under this chapter and holds an active certificate to exercise prescriptive authority under the standards of section 3 of this act.

(7) "Prescription" has the same meaning as defined in RCW 18.64.011.

(8) "Prescriptive authority" means the authority of a prescribing psychologist to prescribe, administer, discontinue, and distribute psychotropic medications recognized or customarily used in the diagnosis, treatment, and management of individuals with psychiatric, mental, cognitive, nervous, emotional, developmental, or behavioral disorders identified in the most recent edition of a widely accepted classification system of mental disorders, as identified by the secretary. The term includes ordering and obtaining necessary laboratory tests, procedures, and diagnostic examinations.

(9) "Psychotropic medication" means substances recognized as drugs, including controlled substances used to treat mental illnesses, in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any respective supplement to those publications.

(10) "Secretary" means the secretary of health.

((~~(3) "Board" means the examining board of psychology.~~

~~(4) "Department" means the department of health.~~))

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.83 RCW to read as follows:

(1) A psychologist who is licensed under this chapter may apply for certification as a prescribing psychologist to allow the psychologist to exercise prescriptive authority.

(2) The board shall certify an applicant as a prescribing psychologist if the applicant demonstrates to the board, by official

transcript or other official evidence satisfactory to the board, that the applicant:

(a) Holds a current license as a psychologist under this chapter;

(b) Holds a doctorate degree obtained from an integrated program of graduate study in psychology, as defined by rules of the board;

(c) Has successfully completed a master's degree in clinical psychopharmacology awarded by an education program that meets the criteria established in subsection (3) of this section;

(d) Has successfully completed a supervised clinical experience in physical assessment comprised of no less than 80 hours. This clinical experience must be supervised by a medical provider licensed to conduct independent physical assessments including physical examinations with instruction in the proper use of instruments used in physical examination;

(e) Has successfully completed a clinical prescribing fellowship to obtain clinical experience sufficient to attain competency in the psychopharmacological treatment of a diverse patient population under the supervision of qualified practitioners, to be comprised of no less than 500 hours and 100 individual patients. Qualified supervisors are licensed health care providers with specialized training and experience in the management of psychotropic medication who are licensed in Washington state or pursuant to a substantially equivalent licensing provision of the law of another state, as established by the board, including physicians, osteopathic physicians, psychiatric nurse practitioners, or prescribing psychologists; and

(f) Has passed an examination relevant to establishing competence for prescribing as developed by a nationally recognized organization and approved by the board.

(3) To meet the criteria under subsection (2)(c) of this section for educational programs, the educational program must be an accredited program within a regionally accredited institution of higher education that is approved by the United States department of education. The program must satisfy the requirements to become designated an education and training program in clinical psychopharmacology according to standards adopted by the board, which may use the standards of an association with relevant education and training program standards, such as the American psychological association. The program must be established and administered in accordance with the board's standards, including any guidelines

established by an association approved by the board and must demonstrate that all content is covered and that students achieve clinical competency in all areas.

(a) The necessary prerequisites for the educational program shall be determined by the institution that offers the degree.

(b) The didactic portion of the educational program shall be at least two years of full-time education, a minimum of 400 contact hours, or the equivalent thereof, and shall include sufficient biomedical education to ensure the necessary knowledge and skills to prescribe psychotropic medications in a safe and effective manner. The didactic portion of the educational program must consist of an appropriate number of didactic hours to assure acquisition of the necessary knowledge and skills to prescribe in a safe and effective manner including, but not limited to:

(i) Science prerequisites, including human anatomy and human physiology, and a course in biology;

(ii) Basic science, including human anatomy, human physiology, biochemistry, and genetics;

(iii) Functional neuroscience, including neuroanatomy, neurophysiology, and neurochemistry;

(iv) Physical examinations, including the measurement and interpretation of vital signs and neurological, cardiovascular, respiratory, abdominal, eye, ear, nose, throat, gastrointestinal, genitourinary, integumentary, allergic and immunologic, and musculoskeletal examinations;

(v) Interpretation of laboratory tests, including therapeutic drug monitoring, blood and urine tests, radiology, electrocardiogram, brain electrophysiology, neuroimaging techniques, and applied genetics;

(vi) Pathological basis of disease, including pathophysiology of common clinical cardiovascular, respiratory, gastrointestinal, hepatic, neurological, and endocrine conditions;

(vii) Clinical medicine, including clinical manifestations, differential diagnosis, and laboratory or radiological evaluation of commonly encountered medical conditions, including patients with complex medical needs and comorbidities, and medical emergencies and their management;

(viii) Clinical neurotherapeutics, including electrophysiology, electroconvulsive therapy and noninvasive interventions, including transcranial magnetic stimulation, neurofeedback, and biofeedback;

(ix) Systems of care, including coordination of care with other medical specialties, consultations and referrals, and coordination and consultation in long-term care;

(x) Pharmacology, including pharmacokinetics and drug delivery systems, pharmacodynamics, neuropharmacology, toxicology, and mechanisms of medication interactions;

(xi) Clinical pharmacology, including major drug classes and nutritional supplements;

(xii) Psychopharmacology, including sedatives and hypnotics, antidepressants, antipsychotics, mood stabilizers, anxiolytics, stimulants, medications for drug dependence, medications for drug adverse effects, pediatric psychopharmacology, geriatric psychopharmacology, including medications for cognitive impairment and polypharmacy, issues of diversity and cultural competence in pharmacological practice, clinical decision making and standard practice guidelines, and guidelines for prescribing controlled substances;

(xiii) Psychopharmacology research, including phases of drug development, clinical trials in psychiatry, and critical evaluation of evidence;

(xiv) Professional, ethical, and legal issues, including conflicts of interest and relationships with the industry, scope of practice issues, diversity and equity issues related to treatment access and adherence and documentation, including nomenclature, abbreviations, and prescription writing.

(4) The board may waive certain requirements for applicants who have obtained relevant training and experience including psychologists who are dually licensed as physicians, nurse practitioners, or other health professionals with comparable prescriptive authority in Washington.

(5) The board may offer a certificate in prescriptive authority by endorsement to an applicant who has a current and unrestricted license to practice psychology and a current and unrestricted certificate in prescriptive authority from another state, or training from the United States department of defense demonstration project or other similar program developed and operated by any branch of the armed forces that imposes substantially equivalent educational and training requirements as those contained in this chapter and required by the board. Upon payment of the required fees, compliance with relevant statutory provisions, and the approval of the application,

the applicant may be certified by endorsement pursuant to this chapter. The board may consider an applicant's experience in prescribing in another state as meeting a portion of the requirements necessary to obtain provisional certification or certification under this chapter, but also shall require additional education and supervision if the board deems it necessary to meet the education and training requirements imposed by this chapter.

(6) A certificate issued under this section may be renewed in accordance with RCW 18.83.090.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.83 RCW to read as follows:

(1) Prescribing psychologists may exercise prescriptive authority as provided in this chapter.

(2) A psychologist may not exercise prescriptive authority unless the psychologist holds a valid certificate as a prescribing psychologist under section 3 of this act.

(3) When prescribing psychotropic medication for a patient, a prescribing psychologist must maintain an ongoing collaborative relationship with a health care practitioner who oversees the patient's general medical care to ensure that necessary medical examinations are conducted and that the psychotropic medication is appropriate for the patient's medical condition. The prescribing psychologist and the health care practitioner shall coordinate the patient's ongoing care.

(4) A prescribing psychologist may not prescribe opioid medications.

(5) Each prescription issued by a prescribing psychologist must:

(a) Comply with all applicable state and federal laws and regulations; and

(b) Be identified as written by the prescribing psychologist in a manner determined by the board.

(6) A record of all prescriptions must be maintained in the patient's record.

(7) A prescribing psychologist may not delegate the authority to prescribe drugs and controlled substances to any other person.

(8) A prescribing psychologist who is authorized to prescribe controlled substances must submit to the board, in a timely manner, the prescribing psychologist's drug enforcement agency registration number.

Sec. 5. RCW 18.83.035 and 2022 c 240 s 10 are each amended to read as follows:

There is created the examining board of psychology which shall examine the qualifications of applicants for licensing. The board shall consist of nine psychologists, one expert on psychiatric prescribing, and two public members, all appointed by the governor. The public members shall not be and have never been psychologists or in training to be psychologists; they may not have any household member who is a psychologist or in training to be a psychologist; they may not participate or ever have participated in a commercial or professional field related to psychology, nor have a household member who has so participated; and they may not have had within two years before appointment a substantial financial interest in a person regulated by the board. Each psychologist member of the board shall have actively practiced psychology in the state of Washington for at least three years immediately preceding appointment and who is licensed under this chapter. One board member shall have specialized training and experience in the management of psychotropic medication to provide expertise on psychopharmacology and psychiatric prescribing. This appointed board member should be either a prescribing psychologist, physician or osteopathic physician with special knowledge of psychopharmacology, psychiatric nurse practitioner, or pharmacist with expertise in psychopharmacology. Board members shall be appointed for a term of five years, except that the terms of the existing appointees shall be adjusted by the governor so that no more than two members' terms expire each year with all subsequent appointments for a five-year term. Upon the death, resignation, or removal of a member, the governor shall appoint a successor to serve for the unexpired term. The board shall elect one of its members to serve as chairperson.

Sec. 6. RCW 18.83.050 and 2004 c 262 s 8 are each amended to read as follows:

(1) The board shall adopt such rules as it deems necessary to carry out its functions.

(2) The board shall examine the qualifications of applicants for licensing under this chapter, to determine which applicants are eligible for licensing under this chapter and shall forward to the secretary the names of applicants so eligible.

(3) The board shall administer examinations to qualified applicants on at least an annual basis. The board shall determine the subject matter and scope of the examination, except as provided in RCW 18.83.170. The board may allow applicants to take the examination upon the granting of their doctoral degree before completion of their internship for supervised experience.

(4) The board shall:

(a) Develop and implement procedures for reviewing the education and training credentials of applicants for certification as a prescribing psychologist;

(b) Certify an applicant as a prescribing psychologist if the applicant meets the qualifications of section 3 of this act;

(c) Adopt rules, in consultation with the Washington state medical commission, to establish standards for the certification of prescribing psychologists in accordance with section 3 of this act and their exercise of prescriptive authority under this chapter; and

(d) Adopt rules for denying, modifying, suspending, or revoking the certification of a prescribing psychologist. The board may require remediation of any deficiencies in the training or practice pattern of the prescribing psychologist when, in the judgment of the board, such deficiencies could reasonably be expected to jeopardize the health, safety, or welfare of the public.

(5) The board shall maintain a current list of every prescribing psychologist's license and certification numbers and the drug enforcement agency registration number.

(6)(a) The board shall transmit to the pharmacy quality assurance commission an initial list of prescribing psychologists. The list must contain:

(i) The name of each prescribing psychologist;

(ii) Each prescribing psychologist's identification number assigned by the board; and

(iii) The effective date of each prescribing psychologist's certification.

(b) The board shall promptly notify the pharmacy quality assurance commission of:

(i) Any additions to the initial list as new prescribing psychologists are certified; and

(ii) The termination, suspension, or reinstatement of any prescribing psychologist's certification.

(7) The board shall keep a complete record of its own proceedings, of the questions given in examinations, of the names and qualifications of all applicants, and the names and addresses of all licensed psychologists. The examination paper of such applicant shall be kept on file for a period of at least one year after examination.

((~~(5)~~)) (8) The board shall, by rule, adopt a code of ethics for psychologists which is designed to protect the public interest.

((~~(6)~~)) (9) The board may require that persons licensed under this chapter as psychologists obtain and maintain professional liability insurance in amounts determined by the board to be practicable and reasonably available.

Sec. 7. RCW 18.83.080 and 1996 c 191 s 66 are each amended to read as follows:

The board shall forward to the secretary the name of each applicant entitled to a license or certificate as a prescribing psychologist under this chapter. The secretary shall promptly issue to such applicant a license authorizing such applicant to use the title "psychologist" or a certificate authorizing such applicant to use the title "prescribing psychologist". Each licensed psychologist shall keep his or her psychologist license and, if applicable, prescribing psychologist certificate displayed in a conspicuous place in his or her principal place of business.

Sec. 8. RCW 18.83.090 and 2009 c 492 s 6 are each amended to read as follows:

(1) The board shall establish rules governing mandatory continuing education requirements which shall be met by any psychologist applying for a psychologist license renewal or a prescribing psychologist certificate renewal.

(2) The office of crime victims advocacy shall supply the board with information on methods of recognizing victims of human trafficking, what services are available for these victims, and where to report potential trafficking situations. The information supplied must be culturally sensitive and must include information relating to minor victims. The board shall disseminate this information to licensees by: Providing the information on the board's website; including the information in newsletters; holding trainings at meetings attended by organization members; or ((~~through~~)) another distribution method determined by the board. The board shall report

to the office of crime victims advocacy on the method or methods it uses to distribute information under this subsection.

(3) Administrative procedures, administrative requirements, and fees for renewal and reissue of licenses and certificates shall be established as provided in RCW 43.70.250 and 43.70.280.

(4)(a) The board shall establish rules for the renewal of a prescribing psychologist certificate issued under section 3 of this act at the time of the renewal of the psychologist's license to practice psychology.

(b) Each applicant for renewal of a prescribing psychologist certificate shall present satisfactory evidence to the board demonstrating the completion of continuing education instruction relevant to prescriptive authority during the previous three-year renewal period.

Sec. 9. RCW 18.64.011 and 2021 c 78 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) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(2) "Business licensing system" means the mechanism established by chapter 19.02 RCW by which business licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a business license application and a business license expiration date common to each renewable license endorsement.

(3) "Chart order" means a lawful order for a drug or device entered on the chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his or her designated agent.

(4) "Closed door long-term care pharmacy" means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a long-term care facility or hospice program, and that is not a retailer of goods to the general public.

(5) "Commission" means the pharmacy quality assurance commission.

(6) "Compounding" means the act of combining two or more ingredients in the preparation of a prescription. Reconstitution and

mixing of (a) sterile products according to federal food and drug administration-approved labeling does not constitute compounding if prepared pursuant to a prescription and administered immediately or in accordance with package labeling, and (b) nonsterile products according to federal food and drug administration-approved labeling does not constitute compounding if prepared pursuant to a prescription.

(7) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

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

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

(10) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or (b) to affect the structure or any function of the body of human beings or other animals.

(11) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(12) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(13) "Drug" and "devices" do not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes. "Drug" also does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(14) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of human beings or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(15) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state to acquire or possess legend drugs. Health care entity includes a freestanding outpatient surgery center, a residential treatment facility, and a freestanding cardiac care center. "Health care entity" does not include an individual practitioner's office or a multipractitioner clinic, regardless of ownership, unless the owner elects licensure as a health care entity. "Health care entity" also does not include an individual practitioner's office or multipractitioner clinic identified by a hospital on a pharmacy application or renewal pursuant to RCW 18.64.043.

(16) "Hospice program" means a hospice program certified or paid by medicare under Title XVIII of the federal social security act, or a hospice program licensed under chapter 70.127 RCW.

(17) "Institutional facility" means any organization whose primary purpose is to provide a physical environment for patients to obtain health care services including, but not limited to, services in a hospital, long-term care facility, hospice program, mental health facility, drug abuse treatment center, residential habilitation center, or a local, state, or federal correction facility.

(18) "Labeling" means the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(19) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(20) "Long-term care facility" means a nursing home licensed under chapter 18.51 RCW, an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(21) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, personally prepares, compounds, packages, or labels such substance or device. "Manufacture" includes the distribution of a licensed pharmacy compounded drug product to other state licensed persons or commercial entities for subsequent resale or distribution, unless a specific product item has approval of the commission. The term does not include:

(a) The activities of a licensed pharmacy that compounds a product on or in anticipation of an order of a licensed practitioner for use in the course of their professional practice to administer to patients, either personally or under their direct supervision;

(b) The practice of a licensed pharmacy when repackaging commercially available medication in small, reasonable quantities for a practitioner legally authorized to prescribe the medication for office use only;

(c) The distribution of a drug product that has been compounded by a licensed pharmacy to other appropriately licensed entities under common ownership or control of the facility in which the compounding takes place; or

(d) The delivery of finished and appropriately labeled compounded products dispensed pursuant to a valid prescription to alternate delivery locations, other than the patient's residence, when requested by the patient, or the prescriber to administer to the patient, or to another licensed pharmacy to dispense to the patient.

(22) "Manufacturer" means a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(23) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(24) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(25) "Pharmacist" means a person duly licensed by the commission to engage in the practice of pharmacy.

(26) "Pharmacy" means every place properly licensed by the commission where the practice of pharmacy is conducted.

(27) "Poison" does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(28) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(29) "Practitioner" means a physician, dentist, veterinarian, nurse, <u>prescribing psychologist,</u> or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(30) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(31) "Secretary" means the secretary of health or the secretary's designee.

(32) "Shared pharmacy services" means a system that allows a participating pharmacist or pharmacy pursuant to a request from another participating pharmacist or pharmacy to process or fill a prescription or drug order, which may include but is not necessarily limited to preparing, packaging, labeling, data entry, compounding for specific patients, dispensing, performing drug utilization reviews, conducting claims adjudication, obtaining refill

authorizations, reviewing therapeutic interventions, or reviewing chart orders.

(33) "Wholesaler" means a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

Sec. 10. RCW 18.79.260 and 2022 c 14 s 2 are each amended to read as follows:

(1) A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, to individuals with illnesses, injuries, or disabilities.

(2) A registered nurse may, at or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, naturopathic physician, optometrist, podiatric physician and surgeon, physician assistant, advanced registered nurse practitioner, prescribing psychologist, or midwife acting within the scope of his or her license, administer medications, treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required. Such direction must be for acts which are within the scope of registered nursing practice.

(3) A registered nurse may delegate tasks of nursing care to other individuals where the registered nurse determines that it is in the best interest of the patient.

(a) The delegating nurse shall:

(i) Determine the competency of the individual to perform the tasks;

(ii) Evaluate the appropriateness of the delegation;

(iii) Supervise the actions of the person performing the delegated task; and

(iv) Delegate only those tasks that are within the registered nurse's scope of practice.

(b) A registered nurse, working for a home health or hospice agency regulated under chapter 70.127 RCW, may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care.

(c) Except as authorized in (b) or (e) of this subsection, a registered nurse may not delegate the administration of medications. Except as authorized in (e) or (f) of this subsection, a registered nurse may not delegate acts requiring substantial skill, and may not

delegate piercing or severing of tissues. Acts that require nursing judgment shall not be delegated.

(d) No person may coerce a nurse into compromising patient safety by requiring the nurse to delegate if the nurse determines that it is inappropriate to do so. Nurses shall not be subject to any employer reprisal or disciplinary action by the nursing care quality assurance commission for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise patient safety.

(e) For delegation in community-based care settings or in-home care settings, a registered nurse may delegate nursing care tasks only to registered or certified nursing assistants under chapter 18.88A RCW or home care aides certified under chapter 18.88B RCW. Simple care tasks such as blood pressure monitoring, personal care service, diabetic insulin device set up, verbal verification of insulin dosage for sight-impaired individuals, or other tasks as defined by the nursing care quality assurance commission are exempted from this requirement.

(i) "Community-based care settings" includes: Community residential programs for people with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(ii) "In-home care settings" include an individual's place of temporary or permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings as defined in (e)(i) of this subsection.

(iii) Delegation of nursing care tasks in community-based care settings and in-home care settings is only allowed for individuals who have a stable and predictable condition. "Stable and predictable condition" means a situation in which the individual's clinical and behavioral status is known and does not require the frequent presence and evaluation of a registered nurse.

(iv) The determination of the appropriateness of delegation of a nursing task is at the discretion of the registered nurse. Other than delegation of the administration of insulin by injection for the purpose of caring for individuals with diabetes, the administration

of medications by injection, sterile procedures, and central line maintenance may never be delegated.

(v) When delegating insulin injections under this section, the registered nurse delegator must instruct the individual regarding proper injection procedures and the use of insulin, demonstrate proper injection procedures, and must supervise and evaluate the individual performing the delegated task as required by the commission by rule. If the registered nurse delegator determines that the individual is competent to perform the injection properly and safely, supervision and evaluation shall occur at an interval determined by the commission by rule.

(vi)(A) The registered nurse shall verify that the nursing assistant or home care aide, as the case may be, has completed the required core nurse delegation training required in chapter 18.88A or 18.88B RCW prior to authorizing delegation.

(B) Before commencing any specific nursing tasks authorized to be delegated in this section, a home care aide must be certified pursuant to chapter 18.88B RCW and must comply with RCW 18.88B.070.

(vii) The nurse is accountable for his or her own individual actions in the delegation process. Nurses acting within the protocols of their delegation authority are immune from liability for any action performed in the course of their delegation duties.

(viii) Nursing task delegation protocols are not intended to regulate the settings in which delegation may occur, but are intended to ensure that nursing care services have a consistent standard of practice upon which the public and the profession may rely, and to safeguard the authority of the nurse to make independent professional decisions regarding the delegation of a task.

(f) The delegation of nursing care tasks only to registered or certified nursing assistants under chapter 18.88A RCW or to home care aides certified under chapter 18.88B RCW may include glucose monitoring and testing.

(g) The nursing care quality assurance commission may adopt rules to implement this section.

(4) Only a person licensed as a registered nurse may instruct nurses in technical subjects pertaining to nursing.

(5) Only a person licensed as a registered nurse may hold herself or himself out to the public or designate herself or himself as a registered nurse.

Sec. 11. RCW 69.50.101 and 2022 c 16 s 51 are each reenacted and amended to read as follows:

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

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

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

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

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

(c) "Board" means the Washington state liquor and cannabis board.

(d) "Cannabis" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

(e) "Cannabis concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(f) "Cannabis processor" means a person licensed by the board to process cannabis into cannabis concentrates, useable cannabis, and cannabis-infused products, package and label cannabis concentrates, useable cannabis, and cannabis-infused products for sale in retail outlets, and sell cannabis concentrates, useable cannabis, and cannabis-infused products at wholesale to cannabis retailers.

(g) "Cannabis producer" means a person licensed by the board to produce and sell cannabis at wholesale to cannabis processors and other cannabis producers.

(h) "Cannabis products" means useable cannabis, cannabis concentrates, and cannabis-infused products as defined in this section.

(i) "Cannabis researcher" means a person licensed by the board to produce, process, and possess cannabis for the purposes of conducting research on cannabis and cannabis-derived drug products.

(j) "Cannabis retailer" means a person licensed by the board to sell cannabis concentrates, useable cannabis, and cannabis-infused products in a retail outlet.

(k) "Cannabis-infused products" means products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis as defined in subsection (d) of this section, and have a THC concentration no greater than ten percent. The term "cannabis-infused products" does not include either useable cannabis or cannabis concentrates.

(l) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(m) "CBD product" means any product containing or consisting of cannabidiol.

(n) "Commission" means the pharmacy quality assurance commission.

(o) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

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

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

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

(2) The term does not include:

(i) a controlled substance;

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

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

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

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

(r) "Department" means the department of health.

(s) "Designated provider" has the meaning provided in RCW 69.51A.010.

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

(u) "Dispenser" means a practitioner who dispenses.

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

(w) "Distributor" means a person who distributes.

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

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

(z) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(aa) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(bb) "Immediate precursor" means a substance:

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

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

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

(cc) "Isomer" means an optical isomer, but in subsection (gg)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(dd) "Lot" means a definite quantity of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(ee) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product.

(ff) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or

labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

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

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

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

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

(hh) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW

69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(ii) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

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

(kk) "Plant" has the meaning provided in RCW 69.51A.010.

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

(mm) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a psychologist under chapter 18.83 RCW and certified as a prescribing psychologist under section 3 of this act; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

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

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician

assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

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

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

(pp) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(qq) "Recognition card" has the meaning provided in RCW 69.51A.010.

(rr) "Retail outlet" means a location licensed by the board for the retail sale of cannabis concentrates, useable cannabis, and cannabis-infused products.

(ss) "Secretary" means the secretary of health or the secretary's designee.

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

(uu) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of cannabis product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

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

(ww) "Useable cannabis" means dried cannabis flowers. The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.

(xx) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults.

NEW SECTION. **Sec. 12.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

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